The 1981 General Assembly convened on January 14, 1981; and adjourned on July 10, 1981, to reconvene on November 16, 1981, or on an earlier date to be determined by the Speaker of the House and the President of the Senate (Resolution 66). In accordance with Article II, Section 11(2) of the Constitution of North Carolina, the General Assembly was convened in extra session on October 5, 1981, at which time Resolution 66 was amended to provide for the reconvening of the 1981 General Assembly in regular session on October 5, 1981. The General Assembly then adjourned on October 10, 1981, to reconvene on October 29, 1981; and adjourned on October 30, 1981, to reconvene on June 2, 1982.
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STATE OF NORTH CAROLINA

PRESIDING OFFICERS OF THE GENERAL ASSEMBLY 1981

JAMES C. GREEN ......................... President of the Senate ............. Bladen
Liston Bryan Ramsey .................... Speaker of the House of Representatives ............ Madison

EXECUTIVE DEPARTMENT

(Offices established by the Constitution, filled by election, and constituting the Council of State)

James B. Hunt, Jr. ..................... Governor ......................... Wilson
James C. Green ......................... Lt. Governor ..................... Bladen
Thad Eure ................................ Secretary of State ............... Hertford
Henry L. Bridges ....................... Auditor ......................... Guilford
Harlan E. Boyles ....................... Treasurer ..................... Wake
A. Craig Phillips ...................... Superintendent of Public Instruction ........ Guilford
Rufus L. Edmisten ..................... Attorney General ............... Watauga
James A. Graham ...................... Commissioner of Agriculture .......... Rowan
John C. Brooks ....................... Commissioner of Labor ........... Wake
John R. Ingram ....................... Commissioner of Insurance .......... Randolph

The political affiliation of each legislator and member of the Council of State listed on this and the following pages is Democratic unless designated Republican by the abbreviation (R).

G.S. 147-16.1 authorizes publication of Executive Orders of the Governor in the Session Laws of North Carolina. Executive Orders from Governor Hunt are carried in the Appendix to this volume.
### 1981 GENERAL ASSEMBLY

#### SENATE OFFICERS

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#### SENATORS

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## HOUSE OFFICERS

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## REPRESENTATIVES

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<td>Jeff H. Enloe, Jr.</td>
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<td>Franklin</td>
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*Appointed by Governor Hunt to fill unexpired term of Mary N. Pegg, who resigned effective August 13, 1981.*
LEGISLATIVE SERVICES COMMISSION

SENATE PRESIDENT PRO TEMPORE W. CRAIG LAWING, Co-Chairman

HOUSE SPEAKER LISTON BRYAN RAMSEY, Co-Chairman

SEN. CONRAD R. DUNCAN, JR. .............................................. Rep. ALLEN C. BARBE
SEN. HAROLD W. HARDISON ................................................ Rep. RICHARD W. BARNES
SEN. JOSEPH J. HARRINGTON .............................................. Rep. CHARLES D. EVANS
SEN. MARSHALL A. RAUCH ................................................ Rep. FOYLE HIGHTOWER, JR.
SEN. JOE B. RAYNOR ......................................................... Rep. MARY P. SEYMOUR
SEN. KENNETH C. ROYALL, JR. .............................................. Rep. WILLIAM T. WATKINS

LEGISLATIVE SERVICES STAFF DIRECTORS

JOHN L. ALLEN, JR. ............................................................. Legislative Services Officer
TERRENCE D. SULLIVAN ........................................................ Director of Research
FRANK R. JUSTICE ............................................................ Director of Fiscal Research
MICHAEL CROWELL ............................................................ Director of Legislative Drafting
GEORGE R. HALL, JR. ............................................................ Administrative Officer
CONSTITUTION

OF THE

State of North Carolina

PREAMBLE

We, the people of the State of North Carolina, grateful to Almighty God, the Sovereign Ruler of Nations, for the preservation of the American Union and the existence of our civil, political and religious liberties, and acknowledging our dependence upon Him for the continuance of those blessings to us and our posterity, do, for the more certain security thereof and for the better government of this State, ordain and establish this Constitution.

ARTICLE I

DECLARATION OF RIGHTS

That the great, general, and essential principles of liberty and free government may be recognized and established, and that the relations of this State to the Union and government of the United States and those of the people of this State to the rest of the American people may be defined and affirmed, we do declare that:

SECTION 1. The equality and rights of persons. We hold it to be self-evident that all persons are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, the enjoyment of the fruits of their own labor, and the pursuit of happiness.

SEC. 2. Sovereignty of the people. All political power is vested in and derived from the people; all government of right originates from the people, is founded upon their will only, and is instituted solely for the good of the whole.

SEC. 3. Internal government of the State. The people of this State have the inherent, sole, and exclusive right of regulating the internal government and police thereof, and of altering or abolishing their Constitution and form of government whenever it may be necessary to their safety and happiness; but every such right shall be exercised in pursuance of law and consistently with the Constitution of the United States.

SEC. 4. Secession prohibited. This State shall ever remain a member of the American Union; the people thereof are part of the American nation; there is no right on the part of this State to secede; and all attempts, from whatever source or upon whatever pretext, to dissolve this Union or to sever this Nation, shall be resisted with the whole power of the State.

SEC. 5. Allegiance to the United States. Every citizen of this State owes paramount allegiance to the Constitution and government of the United States, and no law or ordinance of the State in contravention or subversion thereof can have any binding force.

SEC. 6. Separation of powers. The legislative, executive, and supreme judicial powers of the State government shall be forever separate and distinct from each other.
Sec. 7. Suspending laws. All power of suspending laws or the execution of laws by any authority, without the consent of the representatives of the people, is injurious to their rights and shall not be exercised.

Sec. 8. Representation and taxation. The people of this State shall not be taxed or made subject to the payment of any impost or duty without the consent of themselves or their representatives in the General Assembly, freely given.

Sec. 9. Frequent elections. For redress of grievances and for amending and strengthening the laws, elections shall be often held.

Sec. 10. Free elections. All elections shall be free.

Sec. 11. Property qualifications. As political rights and privileges are not dependent upon or modified by property, no property qualification shall affect the right to vote or hold office.

Sec. 12. Right of assembly and petition. The people have a right to assemble together to consult for their common good, to instruct their representatives, and to apply to the General Assembly for redress of grievances; but secret political societies are dangerous to the liberties of a free people and shall not be tolerated.

Sec. 13. Religious liberty. All persons have a natural and inalienable right to worship Almighty God according to the dictates of their own consciences, and no human authority shall, in any case whatever, control or interfere with the rights of conscience.

Sec. 14. Freedom of speech and press. Freedom of speech and of the press are two of the great bulwarks of liberty and therefore shall never be restrained, but every person shall be held responsible for their abuse.

Sec. 15. Education. The people have a right to the privilege of education, and it is the duty of the State to guard and maintain that right.

Sec. 16. Ex post facto laws. Retrospective laws, punishing acts committed before the existence of such laws and by them only declared criminal, are oppressive, unjust, and incompatible with liberty, and therefore no ex post facto law shall be enacted. No law taxing retrospectively sales, purchases, or other acts previously done shall be enacted.

Sec. 17. Slavery and involuntary servitude. Slavery is forever prohibited. Involuntary servitude, except as a punishment for crime whereof the parties have been adjudged guilty, is forever prohibited.

Sec. 18. Courts shall be open. All courts shall be open; every person for an injury done him in his lands, goods, person, or reputation shall have remedy by due course of law; and right and justice shall be administered without favor, denial, or delay.

Sec. 19. Law of the land; equal protection of the laws. No person shall be taken, imprisoned, or dispossessed of his freehold, liberties, or privileges, or outlawed, or exiled, or in any manner deprived of his life, liberty or property, but by the law the the land. No person shall be denied the equal protection of the laws; nor shall any person be subjected to discrimination by the State because of race, color, religion, or national origin.
SEC. 20. General warrants. General warrants, whereby any officer or other person may be commanded to search suspected places without evidence of the act committed, or to seize any person or persons not named, whose offense is not particularly described and supported by evidence, are dangerous to liberty and shall not be granted.

SEC. 21. Inquiry into restraints on liberty. Every person restrained of his liberty is entitled to a remedy to inquire into the lawfulness thereof, and to remove the restraint if unlawful, and that remedy shall not be denied or delayed. The privilege of the writ of habeas corpus shall not be suspended.

SEC. 22. Modes of prosecution. Except in misdemeanor cases initiated in the District Court Division, no person shall be put to answer any criminal charge but by indictment, presentment, or impeachment. But any person, when represented by counsel, may, under such regulations as the General Assembly shall prescribe, waive indictment in noncapital cases.

SEC. 23. Rights of accused. In all criminal prosecutions, every person charged with crime has the right to be informed of the accusation and to confront the accusers and witnesses with other testimony, and to have counsel for defense, and not be compelled to give self-incriminating evidence, or to pay costs, jail fees, or necessary witness fees of the defense, unless found guilty.

SEC. 24. Right of jury trial in criminal cases. No person shall be convicted of any crime but by the unanimous verdict of a jury in open court. The General Assembly may, however, provide for other means of trial for misdemeanors, with the right of appeal for trial de novo.

SEC. 25. Right of jury trial in civil cases. In all controversies at law respecting property, the ancient mode of trial by jury is one of the best securities of the rights of the people, and shall remain sacred and inviolable.

SEC. 26. Jury service. No person shall be excluded from jury service on account of sex, race, color, religion, or national origin.

SEC. 27. Bail, fines, and punishments. Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted.

SEC. 28. Imprisonment for debt. There shall be no imprisonment for debt in this State, except in cases of fraud.

SEC. 29. Treason against the State. Treason against the State shall consist only of levying war against it or adhering to its enemies by giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court. No conviction of treason or attainder shall work corruption of blood or forfeiture.

SEC. 30. Militia and the right to bear arms. A well regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed; and, as standing armies in time of peace are dangerous to liberty, they shall not be maintained, and the military shall be kept under strict subordination to, and governed by, the civil power. Nothing herein shall justify the practice of carrying concealed weapons, or prevent the General Assembly from enacting penal statutes against that practice.
xiv CONSTITUTION OF NORTH CAROLINA

SEC. 31. Quartering of soldiers. No soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war but in a manner prescribed by law.

SEC. 32. Exclusive emoluments. No person or set of persons is entitled to exclusive or separate emoluments or privileges from the community but in consideration of public services.

SEC. 33. Hereditary emoluments and honors. No hereditary emoluments, privileges, or honors shall be granted or conferred in this State.

SEC. 34. Perpetuities and monopolies. Perpetuities and monopolies are contrary to the genius of a free state and shall not be allowed.

SEC. 35. Recurrence to fundamental principles. A frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty.

SEC. 36. Other rights of the people. The enumeration of rights in this Article shall not be construed to impair or deny others retained by the people.

ARTICLE II

LEGISLATIVE

SECTION 1. Legislative power. The legislative power of the State shall be vested in the General Assembly, which shall consist of a Senate and a House of Representatives.

SEC. 2. Number of Senators. The Senate shall be composed of 50 Senators, biennially chosen by ballot.

SEC. 3. Senate districts; apportionment of Senators. The Senators shall be elected from districts. The General Assembly, at the first regular session convening after the return of every decennial census of population taken by order of Congress, shall revise the senate districts and the apportionment of Senators among those districts, subject to the following requirements:

1) Each Senator shall represent, as nearly as may be, an equal number of inhabitants, the number of inhabitants that each Senator represents being determined for this purpose by dividing the population of the district that he represents by the number of Senators apportioned to that district;

2) Each senate district shall at all times consist of contiguous territory;

3) No county shall be divided in the formation of a senate district;

4) When established, the senate districts and the apportionment Senators shall remain unaltered until the return of another decennial census of population taken by order of Congress.

SEC. 4. Number of Representatives. The House of Representatives shall be composed of 120 Representatives, biennially chosen by ballot.

SEC. 5. Representative districts; apportionment of Representatives. The Representatives shall be elected from districts. The General Assembly, at the first regular session
convening after the return of every decennial census of population taken by order of Congress, shall revise the representative districts and the apportionment of Representatives among those districts, subject to the following requirements:

(1) Each Representative shall represent, as nearly as may be, an equal number of inhabitants, the number of inhabitants that each Representative represents being determined for this purpose by dividing the population of the district that he represents by the number of Representatives apportioned to that district;

(2) Each representative district shall at all times consist of contiguous territory;

(3) No county shall be divided in the formation of a representative district.

(4) When established, the representative districts and the apportionment of Representatives shall remain unaltered until the return of another decennial census of population taken by order of Congress.

SEC. 6. Qualifications for Senator. Each Senator, at the time of his election, shall be not less than 25 years of age, shall be a qualified voter of the State, and shall have resided in the State as a citizen for two years and in the district for which he is chosen for one year immediately preceding his election.

SEC. 7. Qualifications for Representative. Each Representative, at the time of his election, shall be a qualified voter of the State, and shall have resided in the district for which he is chosen for one year immediately preceding his election.

SEC. 8. Elections. The election for members of the General Assembly shall be held for the respective districts in 1972 and every two years thereafter, at the places and on the day prescribed by law.

SEC. 9. Term of office. The term of office of Senators and Representatives shall commence at the time of their election.

SEC. 10. Vacancies. Every vacancy occurring in the membership of the General Assembly by reason of death, resignation, or other cause shall be filled in the manner prescribed by law.

SEC. 11. Sessions.

(1) Regular sessions. The General Assembly shall meet in regular session in 1973 and every two years thereafter on the day prescribed by law. Neither house shall proceed upon public business unless a majority of all of its members are actually present.

(2) Extra sessions on legislative call. The President of the Senate and the Speaker of the House of Representatives shall convene the General Assembly in extra session by their joint proclamation upon receipt by the President of the Senate of written requests therefor signed by three-fifths of all the members of the Senate and upon receipt by the Speaker of the House of Representatives of written requests therefor signed by three-fifths of all the members of the House of Representatives.

SEC. 12. Oath of members. Each member of the General Assembly, before taking his seat, shall take an oath or affirmation that he will support the Constitution and laws of the United States and the Constitution of the State of North Carolina, and will faithfully discharge his duty as a member of the Senate or House of Representatives.
Sec. 13. President of the Senate. The Lieutenant Governor shall be President of the Senate and shall preside over the Senate, but shall have no vote unless the Senate is equally divided.

Sec. 14. Other officers of the Senate.

(1) President Pro Tempore—succession to presidency. The Senate shall elect from its membership a President Pro Tempore, who shall become President of the Senate upon the failure of the Lieutenant Governor-elect to qualify, or upon succession by the Lieutenant Governor to the office of Governor, or upon the death, resignation, or removal from office of the President of the Senate, and who shall serve until the expiration of his term of office as Senator.

(2) President Pro Tempore—temporary succession. During the physical or mental incapacity of the President of the Senate to perform the duties of his office, or during the absence of the President of the Senate, the President Pro Tempore shall preside over the Senate.

(3) Other Officers. The Senate shall elect its other officers.

Sec. 15. Officers of the House of Representatives. The House of Representatives shall elect its Speaker and other officers.

Sec. 16. Compensation and allowances. The members and officers of the General Assembly shall receive for their services the compensation and allowances prescribed by law. An increase in the compensation or allowances of members shall become effective at the beginning of the next regular session of the General Assembly following the session at which it was enacted.

Sec. 17. Journals. Each house shall keep a journal of its proceedings, which shall be printed and made public immediately after the adjournment of the General Assembly.

Sec. 18. Protests. Any member of either house may dissent from and protest against any act or resolve which he may think injurious to the public or to any individual, and have the reasons of his dissent entered on the journal.

Sec. 19. Record votes. Upon motion made in either house and seconded by one fifth of the members present, the yeas and nays upon any question shall be taken and entered upon the journal.

Sec. 20. Powers of the General Assembly. Each house shall be judge of the qualifications and elections of its own members, shall sit upon its own adjournment from day to day, and shall prepare bills to be enacted into laws. The two houses may jointly adjourn to any future day or other place. Either house may, of its own motion, adjourn for a period not in excess of three days.

Sec. 21. Style of the acts. The style of the acts shall be: “The General Assembly of North Carolina enacts:”

Sec. 22. Action on bills. All bills and resolutions of a legislative nature shall be read three times in each house before they become laws, and shall be signed by the presiding officers of both houses.
Sec. 23. Revenue bills. No law shall be enacted to raise money on the credit of the State, or to pledge the faith of the State directly or indirectly for the payment of any debt, or to impose any tax upon the people of the State, or to allow the counties, cities, or towns to do so, unless the bill for the purpose shall have been read three several times in each house of the General Assembly and passed three several readings, which readings shall have been on three different days, and shall have been agreed to by each house respectively, and unless the yeas and nays on the second and third readings of the bill shall have been entered on the journal.

Sec. 24. Limitations on local, private, and special legislation.

(1) Prohibited subjects. The General Assembly shall not enact any local, private, or special act or resolution:

(a) Relating to health, sanitation, and the abatement of nuisances;
(b) Changing the names of cities, towns, and townships;
(c) Authorizing the laying out, opening, altering, maintaining, or discontinuing of highways, streets, or alleys;
(d) Relating to ferries or bridges;
(e) Relating to non-navigable streams;
(f) Relating to cemeteries;
(g) Relating to the pay of jurors;
(h) Erecting new townships, or changing townships lines, or establishing or changing the lines of school districts;
(i) Remitting fines, penalties, and forfeitures, or refunding moneys legally paid into the public treasury;
(j) Regulating labor, trade, mining, or manufacturing;
(k) Extending the time for the levy or collection of taxes or otherwise relieving any collector of taxes from the due performance of his official duties or his sureties from liability;
(l) Giving effect to informal wills and deeds;
(m) Granting a divorce or securing alimony in any individual case;
(n) Altering the name of any person, or legitimating any person not born in lawful wedlock, or restoring to the rights of citizenship any person convicted of a felony.

(2) Repeals. Nor shall the General Assembly enact any such local, private, or special act by partial repeal of a general law; but the General Assembly may at any time repeal local, private, or special laws enacted by it.

(3) Prohibited acts void. Any local, private, or special act or resolution enacted in violation of the provisions of this Section shall be void.
(4) General laws. The General Assembly may enact general laws regulating the matters set out in this Section.

ARTICLE III
EXECUTIVE

SECTION 1, Executive power. The executive power of the State shall be vested in the Governor.

Sec. 2. Governor and Lieutenant Governor: election, term, and qualifications.

(1) Election and term. The Governor and Lieutenant Governor shall be elected by the qualified voters of the State in 1972 and every four years thereafter, at the same time and places as members of the General Assembly are elected. Their term of office shall be four years and shall commence on the first day of January next after their election and continue until their successors are elected and qualified.

(2) Qualifications. No person shall be eligible for election to the office of Governor or Lieutenant Governor unless, at the time of his election, he shall have attained the age of 30 years and shall have been a citizen of the United States for five years and a resident of this State for two years immediately preceding his election. No person elected to the office of Governor or Lieutenant Governor shall be eligible for election to more than two consecutive terms of the same office.

Sec. 3. Succession to office of Governor.

(1) Succession as Governor. The Lieutenant Governor-elect shall become Governor upon the failure of the Governor-elect to qualify. The Lieutenant Governor shall become Governor upon the death, resignation, or removal from office of the Governor. The further order of succession to the office of Governor shall be prescribed by law. A successor shall serve for the remainder of the term of the Governor whom he succeeds and until a new Governor is elected and qualified.

(2) Succession as Acting Governor. During the absence of the Governor from the State, or during the physical or mental incapacity of the Governor to perform the duties of his office, the Lieutenant Governor shall be Acting Governor. The further order of succession as Acting Governor shall be prescribed by law.

(3) Physical incapacity. The Governor may, by a written statement filed with the Attorney General, declare that he is physically incapable of performing the duties of his office, and may thereafter in the same manner declare that he is physically capable of performing the duties of his office.

(4) Mental incapacity. The mental incapacity of the Governor to perform the duties of his office shall be determined only by joint resolution adopted by a vote of two-thirds of all the members of each house of the General Assembly. Thereafter, the mental capacity of the Governor to perform the duties of his office shall be determined only by joint resolution adopted by a vote of a majority of all the members of each house of the General Assembly. In all cases, the General Assembly shall give the Governor such notice as it may deem proper and shall allow him an opportunity to be heard before a joint session of the General Assembly before it takes final action. When the General Assembly is not in
session, the Council of State, a majority of its members concurring, may convene it in extra session for the purpose of proceeding under this paragraph.

(5) Impeachment. Removal of the Governor from office for any other cause shall be by impeachment.

Sec. 4. Oath of office for Governor. The Governor, before entering upon the duties of his office, shall, before any Justice of the Supreme Court, take an oath or affirmation that he will support the Constitution and laws of the United States and of the State of North Carolina, and that he will faithfully perform the duties pertaining to the office of Governor.

Sec. 5. Duties of Governor.

(1) Residence. The Governor shall reside at the seat of government of this State.

(2) Information to General Assembly. The Governor shall from time to time give the General Assembly information of the affairs of the State and recommend to their consideration such measures as he shall deem expedient.

(3) Budget. The Governor shall prepare and recommend to the General Assembly a comprehensive budget of the anticipated revenue and proposed expenditures of the State for the ensuing fiscal period. The budget as enacted by the General Assembly shall be administered by the Governor.

The total expenditures of the State for the fiscal period covered by the budget shall not exceed the total of receipts during that fiscal period and the surplus remaining in the State Treasury at the beginning of the period. To insure that the State does not incur a deficit for any fiscal period, the Governor shall continually survey the collection of the revenue and shall effect the necessary economies in State expenditures, after first making adequate provision for the prompt payment of the principal of and interest on bonds and notes of the State according to their terms, whenever he determines that receipts during the fiscal period, when added to any surplus remaining in the State Treasury at the beginning of the period, will not be sufficient to meet budgeted expenditures. This section shall not be construed to impair the power of the State to issue its bonds and notes within the limitations imposed in Article V of this Constitution, nor to impair the obligation of bonds and notes of the State now outstanding or issued hereafter.

(4) Execution of laws. The Governor shall take care that the laws be faithfully executed.

(5) Commander in Chief. The Governor shall be Commander in Chief of the military forces of the State except when they shall be called into the service of the United States.

(6) Clemency. The Governor may grant reprieves, commutations, and pardons, after conviction, for all offenses (except in cases of impeachment), upon such conditions as he may think proper, subject to regulations prescribed by law relative to the manner of applying for pardons. The terms reprieves, commutations, and pardons shall not include paroles.

(7) Extra sessions. The Governor may, on extraordinary occasions, by and with the advice of the Council of State, convene the General Assembly in extra session by his proclamation, stating therein the purpose or purposes for which they are thus convened.
(8) **Appointments.** The Governor shall nominate and by and with the advice and consent of a majority of the Senators appoint all officers whose appointments are not otherwise provided for.

(9) **Information.** The Governor may at any time require information in writing from the head of any administrative department or agency upon any subject relating to the duties of his office.

(10) **Administrative reorganization.** The General Assembly shall prescribe the functions, powers, and duties of the administrative departments and agencies of the State and may alter them from time to time, but the Governor may make such changes in the allocation of offices and agencies and in the allocation of those functions, powers, and duties as he considers necessary for efficient administration. If those changes affect existing law, they shall be set forth in executive orders, which shall be submitted to the General Assembly not later than the sixtieth calendar day of its session, and shall become effective and shall have the force of law upon adjournment sine die of the session, unless specifically disapproved by resolution of either house of the General Assembly or specifically modified by joint resolution of both houses of the General Assembly.

**Sec. 6. Duties of the Lieutenant Governor.** The Lieutenant Governor shall be President of the Senate, but shall have no vote unless the Senate is equally divided. He shall perform such additional duties as the General Assembly or the Governor may assign to him. He shall receive the compensation and allowances prescribed by law.

**Sec. 7. Other elective officers.**

(1) **Officers.** A Secretary of State, an Auditor, a Treasurer, a Superintendent of Public Instruction, an Attorney General, a Commissioner of Agriculture, a Commissioner of Labor, and a Commissioner of Insurance shall be elected by the qualified voters of the State in 1972 and every four years thereafter, at the same time and places as members of the General Assembly are elected. Their term of office shall be four years and shall commence on the first day of January next after their election and continue until their successors are elected and qualified.

(2) **Duties.** Their respective duties shall be prescribed by law.

(3) **Vacancies.** If the office of any of these officers is vacated by death, resignation, or otherwise, it shall be the duty of the Governor to appoint another to serve until his successor is elected and qualified. Every such vacancy shall be filled by election at the first election for members of the General Assembly that occurs more than 30 days after the vacancy has taken place, and the person chosen shall hold the office for the remainder of the unexpired term fixed in this Section. When a vacancy occurs in the office of any of the officers named in this Section and the term expires on the first day of January succeeding the next election for members of the General Assembly, the Governor shall appoint to fill the vacancy for the unexpired term of the office.

(4) **Interim officers.** Upon the occurrence of a vacancy in the office of any one of these officers for any of the causes stated in the preceding paragraph, the Governor may appoint an interim officer to perform the duties of that office until a person is appointed or elected pursuant to this Section to fill the vacancy and is qualified.
(5) Acting officers. During the physical or mental incapacity of any one of these officers to perform the duties of his office, as determined pursuant to this Section, the duties of his office shall be performed by an acting officer who shall be appointed by the Governor.

(6) Determination of incapacity. The General Assembly shall by law prescribe with respect to those officers, other than the Governor, whose offices are created by this Article, procedures for determining the physical or mental incapacity of any officer to perform the duties of his office, and for determining whether an officer who has been temporarily incapacitated has sufficiently recovered his physical or mental capacity to perform the duties of his office. Removal of those officers from office for any other cause shall be by impeachment.

Sec. 8. Council of State. The Council of State shall consist of the officers whose offices are established by this Article.

Sec. 9. Compensation and allowances. The officers whose offices are established by this Article shall at stated periods receive the compensation and allowances prescribed by law, which shall not be diminished during the time for which they have been chosen.

Sec. 10. Seal of State. There shall be a seal of the State, which shall be kept by the Governor and used by him as occasion may require, and shall be called "The Great Seal of the State of North Carolina." All grants and commissions shall be issued in the name and by the authority of the State of North Carolina, sealed with "The Great Seal of the State of North Carolina," and signed by the Governor.

Sec. 11. Administrative departments. Not later than July 1, 1975, all administrative departments, agencies, and offices of the State and their respective functions, powers, and duties shall be allocated by law among and within not more than 25 principal administrative departments so as to group them as far as practicable according to major purposes. Regulatory, quasi-judicial, and temporary agencies may, but need not, be allocated within a principal department.

ARTICLE IV
JUDICIAL

Section 1. Judicial power. The judicial power of the State shall, except as provided in Section 3 of this Article, be vested in a Court for the Trial of Impeachments and in a General Court of Justice. The General Assembly shall have no power to deprive the judicial department of any power or jurisdiction that rightfully pertains to it as a coordinate department of the government, nor shall it establish or authorize any courts other than as permitted by this Article.

Sec. 2. General Court of Justice. The General Court of Justice shall constitute a unified judicial system for purposes of jurisdiction, operation, and administration, and shall consist of an Appellate Division, a Superior Court Division, and a District Court Division.

Sec. 3. Judicial powers of administrative agencies. The General Assembly may vest in administrative agencies established pursuant to law such judicial powers as may be reasonably necessary as an incident to the accomplishment of the purposes for which the agencies were created. Appeals from administrative agencies shall be to the General Court of Justice.
SEC. 4. Court for the Trial of Impeachments. The House of Representatives solely shall have the power of impeaching. The Court for the Trial of Impeachments shall be the Senate. When the Governor or Lieutenant Governor is impeached, the Chief Justice shall preside over the Court. A majority of the members shall be necessary to a quorum, and no person shall be convicted without the concurrence of two-thirds of the Senators present. Judgment upon conviction shall not extend beyond removal from and disqualification to hold office in this State, but the party shall be liable to indictment and punishment according to law.

SEC. 5. Appellate division. The Appellate Division of the General Court of Justice shall consist of the Supreme Court and the Court of Appeals.

SEC. 6. Supreme Court.

(1) Membership. The Supreme Court shall consist of a Chief Justice and six Associate Justices, but the General Assembly may increase the number of Associate Justices to not more than eight. In the event the Chief Justice is unable, on account of absence or temporary incapacity, to perform any of the duties placed upon him, the senior Associate Justice available may discharge those duties.

(2) Sessions of the Supreme Court. The sessions of the Supreme Court shall be held in the City of Raleigh unless otherwise provided by the General Assembly.

SEC. 7. Court of Appeals. The structure, organization, and composition of the Court of Appeals shall be determined by the General Assembly. The Court shall have not less than five members, and may be authorized to sit in divisions, or other than en banc. Sessions of the Court shall be held at such times and places as the General Assembly may prescribe.

SEC. 8. Retirement of Justices and Judges. The General Assembly shall provide by general law for the retirement of Justices and Judges of the General Court of Justice, and may provide for the temporary recall of any retired Justice or Judge to serve on the court from which he was retired. The General Assembly shall also prescribe maximum age limits for service as a Justice or Judge.


(1) Superior Court districts. The General Assembly shall, from time to time, divide the State into a convenient number of Superior Court judicial districts and shall provide for the election of one or more Superior Court Judges for each district. Each regular Superior Court Judge shall reside in the district for which he is elected. The General Assembly may provide by general law for the selection or appointment of special or emergency Superior Court Judges not selected for a particular judicial district.

(2) Open at all times; sessions for trial of cases. The Superior Courts shall be open at all times for the transaction of all business except the trial of issues of fact requiring a jury. Regular trial sessions of the Superior Court shall be held at times fixed pursuant to a calendar of courts promulgated by the Supreme Court. At least two sessions for the trial of jury cases shall be held annually in each county.

(3) Clerks. A Clerk of the Superior Court for each county shall be elected for a term of four years by the qualified voters thereof, at the same time and places as members of the General Assembly are elected. If the office of Clerk of the Superior Court becomes vacant...
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otherwise than by the expiration of the term, or if the people fail to elect, the senior regular resident Judge of the Superior Court serving the county shall appoint to fill the vacancy until an election can be regularly held.

Sec. 10. District Courts. The General Assembly shall, from time to time, divide the State into a convenient number of local court districts and shall prescribe where the District Courts shall sit, but a District Court must sit in at least one place in each county. District Judges shall be elected for each district for a term of four years, in a manner prescribed by law. When more than one District Judge is authorized and elected for a district, the Chief Justice of the Supreme Court shall designate one of the judges as Chief District Judge. Every District Judge shall reside in the district for which he is elected. For each county, the senior regular resident Judge of the Superior Court serving the county shall appoint for a term of two years, from nominations submitted by the Clerk of the Superior Court of the county, one or more Magistrates who shall be officers of the District Court. The number of District Judges and Magistrates shall, from time to time, be determined by the General Assembly. Vacancies in the office of District Judge shall be filled for the unexpired term in a manner prescribed by law. Vacancies in the office of Magistrate shall be filled for the unexpired term in the manner provided for original appointment to the office.

Sec. 11. Assignment of Judges. The Chief Justice of the Supreme Court, acting in accordance with rules of the Supreme Court, shall make assignments of Judges of the Superior Court and may transfer District Judges from one district to another for temporary or specialized duty. The principle of rotating Superior Court Judges among the various districts of a division is a salutary one and shall be observed. For this purpose the General Assembly may divide the State into a number of judicial divisions. Subject to the general supervision of the Chief Justice of the Supreme Court, assignment of District Judges within each local court district shall be made by the Chief District Judge.

Sec. 12. Jurisdiction of the General Court of Justice.

1. Supreme Court. The Supreme Court shall have jurisdiction to review upon appeal any decision of the courts below, upon any matter of law or legal inference. The jurisdiction of the Supreme Court over “issues of fact” and “questions of fact” shall be the same exercised by it prior to the adoption of this Article, and the Court may issue any remedial writs necessary to give it general supervision and control over the proceedings of the other courts.

2. Court of Appeals. The Court of Appeals shall have such appellate jurisdiction as the General Assembly may prescribe.

3. Superior Court. Except as otherwise provided by the General Assembly, the Superior Court shall have original general jurisdiction throughout the State. The Clerks of the Superior Court shall have such jurisdiction and powers as the General Assembly shall prescribe by general law uniformly applicable in every county of the State.

4. District Courts: Magistrates. The General Assembly shall, by general law uniformly applicable in every local court district of the State, prescribe the jurisdiction and powers of the District Courts and Magistrates.

5. Waiver. The General Assembly may by general law provide that the jurisdictional limits may be waived in civil cases.
(6) **Appeals.** The General Assembly shall by general law provide a proper system of appeals. Appeals from Magistrates shall be heard de novo, with the right of trial by jury as defined in this Constitution and the laws of this State.

**Sec. 13. Forms of action; rules of procedure.**

(1) **Forms of Action.** There shall be in this State but one form of action for the enforcement or protection of private rights or the redress of private wrongs, which shall be denominated a civil action, and in which there shall be a right to have issues of fact tried before a jury. Every action prosecuted by the people of the State as a party against a person charged with a public offense, for the punishment thereof, shall be termed a criminal action.

(2) **Rules of procedure.** The Supreme Court shall have exclusive authority to make rules of procedure and practice for the Appellate Division. The General Assembly may make rules of procedure and practice for the Superior Court and District Court Divisions, and the General Assembly may delegate this authority to the Supreme Court. No rule of procedure or practice shall abridge substantive rights or abrogate or limit the right of trial by jury. If the General Assembly should delegate to the Supreme Court the rule-making power, the General Assembly may, nevertheless, alter, amend, or repeal any rule of procedure or practice adopted by the Supreme Court for the Superior Court or District Court Divisions.

**Sec. 14. Waiver of jury trial.** In all issues of fact joined in any court, the parties in any civil case may waive the right to have the issues determined by a jury, in which case the finding of the judge upon the facts shall have the force and effect of a verdict by a jury.

**Sec. 15. Administration.** The General Assembly shall provide for an administrative office of the courts to carry out the provisions of this Article.

**Sec. 16. Terms of office and election of Justices of the Supreme Court, Judges of the Court of Appeals, and Judges of the Superior Court.** Justices of the Supreme Court, Judges of the Court of Appeals, and regular Judges of the Superior Court shall be elected by the qualified voters and shall hold office for terms of eight years and until their successors are elected and qualified. Justices of the Supreme Court and Judges of the Court of Appeals shall be elected by the qualified voters of the State. Regular Judges of the Superior Court may be elected by the qualified voters of the State or by the voters of their respective districts, as the General Assembly may prescribe.

**Sec. 17. Removal of Judges, Magistrates and Clerks.**

(1) **Removal of Judges by the General Assembly.** Any Justice or Judge of the General Court of Justice may be removed from office for mental or physical incapacity by joint resolution of two-thirds of all the members of each house of the General Assembly. Any Justice or Judge against whom the General Assembly may be about to proceed shall receive notice thereof, accompanied by a copy of the causes alleged for his removal, at least 20 days before the day on which either house of the General Assembly shall act thereon. Removal from office by the General Assembly for any other cause shall be by impeachment.

(2) **Additional method of removal of Judges.** The General Assembly shall prescribe a procedure, in addition to impeachment and address set forth in this Section, for the removal of a Justice or Judge of the General Court of Justice for mental or physical
incapacity interfering with the performance of his duties which is, or is likely to become, permanent, and for the censure and removal of a Justice or Judge of the General Court of Justice for wilful misconduct in office, wilful and persistent failure to perform his duties, habitual intemperance, conviction of a crime involving moral turpitude, or conduct prejudicial to the administration of justice that brings the judicial office into disrepute.

(3) **Removal of Magistrates.** The General Assembly shall provide by general law for the removal of Magistrates for misconduct or mental or physical incapacity.

(4) **Removal of Clerks.** Any Clerk of the Superior Court may be removed from office for misconduct or mental or physical incapacity by the senior regular resident Superior Court Judge serving the county. Any Clerk against whom proceedings are instituted shall receive written notice of the charges against him at least ten days before the hearing upon the charges. Any Clerk so removed from office shall be entitled to an appeal as provided by law.

**SEC. 18.** District Attorney and prosecutorial districts.

(1) **District Attorneys.** The General Assembly shall, from time to time, divide the State into a convenient number of prosecutorial districts, for each of which a District Attorney shall be chosen for a term of four years by the qualified voters thereof, at the same time and places as members of the General Assembly are elected. The District Attorney shall advise the officers of justice in his district, be responsible for the prosecution on behalf of the State of all criminal actions in the Superior Courts of his district, perform such duties related to appeals therefrom as the Attorney General may require, and perform such other duties as the General Assembly may prescribe.

(2) **Prosecution in District Court Division.** Criminal actions in the District Court Division shall be prosecuted in such manner as the General Assembly may prescribe by general law uniformly applicable in every local court district of the State.

**SEC. 19.** Vacancies. Unless otherwise provided in this Article, all vacancies occurring in the offices provided for by this Article shall be filled by appointment of the Governor, and the appointees shall hold their places until the next election for members of the General Assembly that is held more than 30 days after the vacancy occurs, when elections shall be held to fill the offices. When the unexpired term of any of the offices named in this Article of the Constitution in which a vacancy has occurred, and in which it is herein provided that the Governor shall fill the vacancy, expires on the first day of January succeeding the next election for members of the General Assembly, the Governor shall appoint to fill that vacancy for the unexpired term of the office. If any person elected or appointed to any of these offices shall fail to qualify, the office shall be appointed to, held, and filled as provided in case of vacancies occurring therein. All incumbents of these offices shall hold until their successors are qualified.

**SEC. 20.** Revenues and expenses of the judicial department. The General Assembly shall provide for the establishment of a schedule of court fees and costs which shall be uniform throughout the State within each division of the General Court of Justice. The operating expenses of the judicial department, other than compensation to process servers and other locally paid non-judicial officers, shall be paid from State funds.

**SEC. 21.** Fees, salaries, and emoluments. The General Assembly shall prescribe and regulate the fees, salaries, and emoluments of all officers provided for in this Article, but the salaries of Judges shall not be diminished during their continuance in office. In no case
shall the compensation of any Judge or Magistrate be dependent upon his decision or upon
the collection of costs.

Sec. 22. Qualification of Justices and Judges. Only persons duly authorized to practice
law in the courts of this State shall be eligible for election or appointment as a Justice of the
Supreme Court, Judge of the Court of Appeals, Judge of the Superior Court, or Judge of
District Court. This section shall not apply to persons elected to or serving in such
capacities on or before January 1, 1981.

ARTICLE V
FINANCE

Section 1. No capitation tax to be levied. No poll or capitation tax shall be levied by the
General Assembly or by any county, city or town, or other taxing unit.

Sec. 2. State and local taxation.

(1) Power of taxation. The power of taxation shall be exercised in a just and equitable
manner, for public purposes only, and shall never be surrendered, suspended, or con-
tracted away.

(2) Classification. Only the General Assembly shall have the power to classify property
for taxation, which power shall be exercised only on a State-wide basis and shall not be
delegated. No class of property shall be taxed except by uniform rule, and every classifi-
cation shall be made by general law uniformly applicable in every county, city and town, and
other unit of local government.

(3) Exemptions. Property belonging to the State, counties, and municipal corporations
shall be exempt from taxation. The General Assembly may exempt cemeteries and
property held for educational, scientific, literary, cultural, charitable, or religious pur-
poses, and, to a value not exceeding $300, any personal property. The General Assembly
may exempt from taxation not exceeding $1,000 in value of property held and used as the
place of residence of the owner. Every exemption shall be on a State-wide basis and shall
be made by general law uniformly applicable in every county, city and town, and other
unit of local government. No taxing authority other than the General Assembly may grant
exemptions, and the General Assembly shall not delegate the powers accorded to it by this
subsection.

(4). Special tax areas. Subject to the limitations imposed by Section 4, the General
Assembly may enact general laws authorizing the governing body of any county, city or
town to define territorial areas and to levy taxes within those areas, in addition to those
levied throughout the county, city, or town, in order to finance, provide, or maintain
services, facilities, and functions in addition to or to a greater extent than those financed,
provided, or maintained for the entire county, city, or town.

(5) Purposes of property tax. The General Assembly shall not authorize any county, city
or town, special district, or other unit of local government to levy taxes on property,
except for purposes authorized by general law uniformly applicable throughout the State,
unless the tax is approved by a majority of the qualified voters of the unit who vote
thereon.

(6) Income tax. The rate of tax on incomes shall not in any case exceed ten per cent, and
there shall be allowed personal exemptions and deductions so that only net incomes are
taxed.
(7) Contracts. The General Assembly may enact laws whereby the State, any county, city or town, and any other public corporation may contract with and appropriate money to any person, association, or corporation for the accomplishment of public purposes only.

Sec. 3. Limitations upon the increase of State debt.

(1) Authorized purposes; two-thirds limitation. The General Assembly shall have no power to contract debts secured by a pledge of the faith and credit of the State, unless approved by a majority of the qualified voters of the State who vote thereon, except for the following purposes:

(a) to fund or refund a valid existing debt;
(b) to supply an unforeseen deficiency in the revenue;
(c) to borrow in anticipation of the collection of taxes due and payable within the current fiscal year to an amount not exceeding 50 per cent of such taxes;
(d) to suppress riots or insurrections, or to repel invasions;
(e) to meet emergencies immediately threatening the public health or safety, as conclusively determined in writing by the Governor;
(f) for any other lawful purpose, to the extent of two-thirds of the amount by which the State's outstanding indebtedness shall have been reduced during the next preceding biennium.

(2) Gift or loan of credit regulated. The General Assembly shall have no power to give or lend the credit of the State in aid of any person, association, or corporation, except a corporation in which the State has a controlling interest, unless the subject is submitted to a direct vote of the people of the State, and is approved by a majority of the qualified voters who vote thereon.

(3) Definitions. A debt is incurred within the meaning of this Section when the State borrows money. A pledge of the faith and credit within the meaning of this Section is a pledge of the taxing power. A loan of credit within the meaning of this Section occurs when the State exchanges its obligations with or in any way guarantees the debts of an individual, association or private corporation.

(4) Certain debts barred. The General Assembly shall never assume or pay any debt or obligation, express or implied, incurred in aid of insurrection against the United States. Neither shall the General Assembly assume or pay any debt or bond incurred or issued by authority of the Convention of 1868, the special session of the General Assembly of 1868, or the General Assemblies of 1868-69 and 1869-70, unless the subject is submitted to the people of the State and is approved by a majority of all the qualified voters at a referendum held for that sole purpose.

(5) Outstanding debt. Except as provided in subsection (4), nothing in this Section shall be construed to invalidate or impair the obligation of any bond, note, or other evidence of indebtedness outstanding or authorized for issue as of July 1, 1973.

Sec. 4. Limitations upon the increase of local government debt.
(1) Regulation of borrowing and debt. The General Assembly shall enact general laws relating to the borrowing of money secured by a pledge of the faith and credit and the contracting of other debts by counties, cities and towns, special districts, and other units, authorities, and agencies of local government.

(2) Authorized purposes; two-thirds limitation. The General Assembly shall have no power to authorize any county, city or town, special district, or other unit of local government to contract debts secured by a pledge of its faith and credit unless approved by a majority of the qualified voters of the unit who vote thereon, except for the following purposes:

(a) to fund or refund a valid existing debt;

(b) to supply an unforeseen deficiency in the revenue;

(c) to borrow in anticipation of the collection of taxes due and payable within the current fiscal year to an amount not exceeding 50 per cent of such taxes;

(d) to suppress riots or insurrections;

(e) to meet emergencies immediately threatening the public health or safety, as conclusively determined in writing by the Governor;

(f) for purpose authorized by general laws uniformly applicable throughout the State, to the extent of two-thirds of the amount by which the unit’s outstanding indebtedness shall have been reduced during the next preceding fiscal year.

(3) Gift or loan of credit regulated. No county, city or town, special district, or other unit of local government shall give or lend its credit in aid of any person, association, or corporation, except for public purposes as authorized by general law, and unless approved by a majority of the qualified voters of the unit who vote thereon.

(4) Certain debts barred. No county, city or town, or other unit of local government shall assume or pay any debt or the interest thereon contracted directly or indirectly in aid or support of rebellion or insurrection against the United States.

(5) Definitions. A debt is incurred within the meaning of this Section when a county, city or town, special district, or other unit, authority, or agency of local government borrows money. A pledge of faith and credit within the meaning of this Section is a pledge of the taxing power. A loan of credit within the meaning of this Section occurs when a county, city or town, special district, or other unit, authority, or agency of local government exchanges its obligations with or in any way guarantees the debts of an individual, association, or private corporation.

(6) Outstanding debt. Except as provided in subsection (4), nothing in this Section shall be construed to invalidate or impair the obligation of any bond, note, or other evidence of indebtedness outstanding or authorized for issue as of July 1, 1973.

Sec. 5. Acts levying taxes to state objects. Every act of the General Assembly levying a tax shall state the special object to which it is to be applied, and it shall be applied to no other purpose.
SEC. 6. Inviolability of sinking funds and retirement funds.

(1) Sinking funds. The General Assembly shall not use or authorize to be used any part of the amount of any sinking fund for any purpose other than the retirement of the bonds for which the sinking fund has been created, except that these funds may be invested as authorized by law.

(2) Retirement funds. Neither the General Assembly nor any public officer, employee, or agency shall use or authorize to be used any part of the funds of the Teachers' and State Employees' Retirement System or the Local Governmental Employees' Retirement System for any purpose other than retirement system benefits and purposes, administrative expenses, and refunds; except that retirement system funds may be invested as authorized by law, subject to the investment limitation that the funds of the Teachers' and State Employees' Retirement System and the Local Governmental Employees' Retirement System shall not be applied, diverted, loaned to, or used by the State, any State agency, State officer, public officer, or public employee.

SEC. 7. Drawing public money.

(1) State treasury. No money shall be drawn from the State Treasury but in consequence of appropriations made by law, and an accurate account of the receipts and expenditures of State funds shall be published annually.

(2) Local treasury. No money shall be drawn from the treasury of any county, city or town, or other unit of local government except by authority of law.

SEC. 8. Health care facilities. Notwithstanding any other provisions of this Constitution, the General Assembly may enact general laws to authorize the State, counties, cities or towns, and other State and local governmental entities to issue revenue bonds to finance or refinance for any such governmental entity or any nonprofit private corporation, regardless of any church or religious relationship, the cost of acquiring, constructing, and financing health care facility projects to be operated to serve and benefit the public; provided, no cost incurred earlier than two years prior to the effective date of this section shall be refinanced. Such funds shall be payable from the revenues, gross or net, of any such projects and any other health care facilities of any such governmental entity or nonprofit private corporation pledged therefor; shall not be secured by a pledge of the full faith and credit, or deemed to create an indebtedness requiring voter approval of any governmental entity; and may be secured by an agreement which may provide for the conveyance of title of, with or without consideration, any such project or facilities to the governmental entity or nonprofit private corporation. The power of eminent domain shall not be used pursuant hereto for nonprofit private corporations.

SEC. 9. Capital projects for industry. Notwithstanding any other provision of this Constitution, the General Assembly may enact general laws to authorize counties to create authorities to issue revenue bonds to finance, but not to refinance, the cost of capital projects consisting of industrial, manufacturing and pollution control facilities for industry and pollution control facilities for public utilities, and to refund such bonds.

In no event shall such revenue bonds be secured by or payable from any public moneys whatsoever, but such revenue bonds shall be secured by and payable only from revenues or property derived from private parties. All such capital projects and all transactions
therefor shall be subject to taxation to the extent such projects and transactions would be subject to taxation if no public body were involved therewith; provided, however, that the General Assembly may provide that the interest on such revenue bonds shall be exempt from income taxes within the State.

The power of eminent domain shall not be exercised to provide any property for any such capital project.

SEC. 10. **Joint ownership of generation and transmission facilities.** In addition to other powers conferred upon them by law, municipalities owning or operating facilities for the generation, transmission or distribution of electric power and energy and joint agencies formed by such municipalities for the purpose of owning or operating facilities for the generation and transmission of electric power and energy (each, respectively, "a unit of municipal government") may jointly or severally own, operate and maintain works, plants and facilities, within or without the State, for the generation and transmission of electric power and energy, or both, with any person, firm, association or corporation, public or private, engaged in the generation, transmission or distribution of electric power and energy for resale (each, respectively, "a co-owner") within this State or any state contiguous to this State, and may enter into and carry out agreements with respect to such jointly owned facilities. For the purpose of financing its share of the cost of any such jointly owned electric generation or transmission facilities, a unit of municipal government may issue its revenue bonds in the manner prescribed by the General Assembly, payable as to both principal and interest solely from and secured by a lien and charge on all or any part of the revenue derived, or to be derived, by such unit of municipal government from the ownership and operation of its electric facilities; provided, however, that no unit of municipal government shall be liable, either jointly or severally, for any acts, omissions or obligations of any co-owner, nor shall any money or property of any unit of municipal government be credited or otherwise applied to the account of any co-owner or to be charged with any debt, lien or mortgage as a result of any debt or obligation of any co-owner.

**ARTICLE VI**

**SUFFRAGE AND ELIGIBILITY TO OFFICE**

**Section 1. Who may vote.** Every person born in the United States and every person who has been naturalized, 18 years of age, and possessing the qualifications set out in this article, shall be entitled to vote at any election by the people of the State, except as herein otherwise provided.

**Sec. 2. Qualifications of voter.**

(1) **Residence period for State elections.** Any person who has resided in the State of North Carolina for one year and in the precinct, ward, or other election district for 30 days next preceding an election, and possesses the other qualifications set out in this Article, shall be entitled to vote at any election held in this State. Removal from one precinct, ward, or other election district to another in this State shall not operate to deprive any person of the right to vote in the precinct, ward, or other election district from which that person has removed until 30 days after the removal.

(2) **Residence period for presidential elections.** The General Assembly may reduce the time of residence for persons voting in presidential elections. A person made eligible by reason of a reduction in time of residence shall possess the other qualifications set out in
this Article, shall only be entitled to vote for President and Vice President of the United States or for electors for President and Vice President, and shall not thereby become eligible to hold office in this State.

(3) Disqualification of felon. No person adjudged guilty of a felony against this State or the United States, or adjudged guilty of a felony in another state that also would be a felony if it had been committed in this State, shall be permitted to vote unless that person shall be first restored to the rights of citizenship in the manner prescribed by law.

SEC. 3. Registration. Every person offering to vote shall be at the time legally registered as a voter as herein prescribed and in the manner provided by law. The General Assembly shall enact general laws governing the registration of voters.

SEC. 4. Qualification for registration. Every person presenting himself for registration shall be able to read and write any section of the Constitution in the English language.

SEC. 5. Elections by people and General Assembly. All elections by the people shall be by ballot, and all elections by the General Assembly shall be viva voce. A contested election for any office established by Article IIII of this Constitution shall be determined by joint ballot of both houses of the General Assembly in the manner prescribed by law.

SEC. 6. Eligibility to elective office. Every qualified voter in North Carolina who is 21 years of age, except as in this Constitution disqualified, shall be eligible for election by the people to office.

SEC. 7. Oath. Before entering upon the duties of an office, a person elected or appointed to the office shall take and subscribe the following oath:

"I, .............................................., do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as .............................................., so help me God."

SEC. 8. Disqualifications for office. The following persons shall be disqualified for office:

First, any person who shall deny the being of Almighty God.

Second, with respect to any office that is filled by election by the people, any person who is not qualified to vote in an election for that office.

Third, any person who has been adjudged guilty of treason or any other felony against this State or the United States, or any person who has been adjudged guilty of a felony in another state that also would be a felony if it had been committed in this State, or any person who has been adjudged guilty of corruption or malpractice in any office, or any person who has been removed by impeachment from any office, and who has not been restored to the rights of citizenship in the manner prescribed by law.


(1) Prohibitions. It is salutary that the responsibilities of self-government be widely shared among the citizens of the State and that the potential abuse of authority inherent in the holding of multiple offices by an individual be avoided. Therefore, no person who holds
any office or place of trust or profit under the United States or any department thereof, or under any other state or government, shall be eligible to hold any office in this State that is filled by election by the people. No person shall hold concurrently any two offices in this State that are filled by election of the people. No person shall hold concurrently any two or more appointive offices or places of trust or profit, or any combination of elective and appointive offices or places of trust or profit, except as the General Assembly shall provide by general law.

(2) Exceptions. The provisions of this Section shall not prohibit any officer of the military forces of the State or of the United States not on active duty for an extensive period of time, any notary public, or any delegate to a Convention of the People from holding concurrently another office or place of trust or profit under this State or the United States or any department thereof.

Sec. 10. Continuation in office. In the absence of any contrary provision, all officers in this State, whether appointed or elected, shall hold their positions until other appointments are made or, if the offices are elective, until their successors are chosen and qualified.

ARTICLE VII

LOCAL GOVERNMENT

SECTION 1. General Assembly to provide for local government. The General Assembly shall provide for the organization and government and the fixing of boundaries of counties, cities and towns, and other governmental subdivisions, and, except as otherwise prohibited by this Constitution, may give such powers and duties to counties, cities and towns, and other governmental subdivisions as it may deem advisable.

The General Assembly shall not incorporate as a city or town, nor shall it authorize to be incorporated as a city or town, any territory lying within one mile of the corporate limits of any other city or town having a population of 5,000 or more according to the most recent decennial census of population taken by order of Congress, or lying within three miles of the corporate limits of any other city or town having a population of 10,000 or more according to the most recent decennial census of population taken by order of Congress, or lying within four miles of the corporate limits of any other city or town having a population of 25,000 or more according to the most recent decennial census of population taken by order of Congress, or lying within five miles of the corporate limits of any other city or town having a population of 50,000 or more according to the most recent decennial census of population taken by order of Congress. Notwithstanding the foregoing limitations, the General Assembly may incorporate a city or town by an act adopted by vote of three-fifths of all the members of each house.

Sec. 2. Sheriffs. In each county a Sheriff shall be elected by the qualified voters thereof at the same time and places as members of the General Assembly are elected and shall hold his office for a period of four years, subject to removal for cause as provided by law.

Sec. 3. Merged or consolidated counties. Any unit of local government formed by the merger or consolidation of a county or counties and the cities and towns therein shall be deemed both a county and a city for the purposes of this Constitution, and may exercise any authority conferred by law on counties, or on cities and towns, or both, as the General Assembly may provide.
ARTICLE VII

CORPORATIONS

Section 1. Corporate charters. No corporation shall be created, nor shall its charter be extended, altered, or amended by special act, except corporations for charitable, educational, penal, or reformatory purposes that are to be and remain under the patronage and control of the State; but the General Assembly shall provide by general laws for the chartering, organization, and powers of all corporations, and for the amending, extending, and forfeiture of all charters, except those above permitted by special act. All such general acts may be altered from time to time or repealed. The General Assembly may at any time by special act repeal the charter of any corporation.

Sec. 2. Corporations defined. The term "corporation" as used in this Section shall be construed to include all associations and joint-stock companies having any of the powers and privileges of corporations not possessed by individuals or partnerships. All corporations shall have the right to sue and shall be subject to be sued in all courts, in like cases as natural persons.

ARTICLE IX

EDUCATION

Section 1. Education encouraged. Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools, libraries, and the means of education shall forever be encouraged.

Sec. 2. Uniform system of schools.

(1) General and uniform system; term. The General Assembly shall provide by taxation and otherwise for a general and uniform system of free public schools, which shall be maintained at least nine months in every year, and wherein equal opportunities shall be provided for all students.

(2) Local responsibility. The General Assembly may assign to units of local government such responsibility for the financial support of the free public schools as it may deem appropriate. The governing boards of units of local government with financial responsibility for public education may use local revenues to add to or supplement any public school or post-secondary school program.

Sec. 3. School attendance. The General Assembly shall provide that every child of appropriate age and of sufficient mental and physical ability shall attend the public schools, unless educated by other means.

Sec. 4. State Board of Education

(1) Board. The State Board of Education shall consist of the Lieutenant Governor, the Treasurer, and eleven members appointed by the Governor, subject to confirmation by the General Assembly in joint session. The General Assembly shall divide the State into eight educational districts. Of the appointive members of the Board, one shall be appointed from each of the eight educational districts and three shall be appointed from the State at large. Appointments shall be for overlapping terms of eight years. Appoint-
ments to fill vacancies shall be made by the Governor for the unexpired terms and shall not be subject to confirmation.

(2) Superintendent of Public Instruction. The Superintendent of Public Instruction shall be the secretary and chief administrative officer of the State Board of Education.

Sec. 5. Powers and duties of Board. The State Board of Education shall supervise and administer the free public school system and the educational funds provided for its support, except the funds mentioned in Section 7 of this Article, and shall make all needed rules and regulations in relation thereto, subject to laws enacted by the General Assembly.

Sec. 6. State school fund. The proceeds of all lands that have been or hereafter may be granted by the United States to this State, and not otherwise appropriated by this State or the United States; all moneys, stocks, bonds, and other property belonging to the State for purposes of public education; the net proceeds of all sales of the swamp lands belonging to the State; and all other grants, gifts, and devises that have been or hereafter may be made to the State, and not otherwise appropriated by the State or by the terms of the grant, gift, or devise, shall be paid into the State Treasury and, together with so much of the revenue of the State as may be set apart for that purpose, shall be faithfully appropriated and used exclusively for establishing and maintaining a uniform system of free public schools.

Sec. 7. County school fund. All moneys, stocks, bonds, and other property belonging to a county school fund, and the clear proceeds of all penalties and forfeitures and of all fines collected in the several counties for any breach of the penal laws of the State, shall belong to and remain in the several counties, and shall be faithfully appropriated and used exclusively for maintaining free public schools.

Sec. 8. Higher education. The General Assembly shall maintain a public system of higher education, comprising The University of North Carolina and such other institutions of higher education as the General Assembly may deem wise. The General Assembly shall provide for the selection of trustees of The University of North Carolina and of the other institutions of higher education, in whom shall be vested all the privileges, rights, franchises, and endowments heretofore granted to or conferred upon the trustees of these institutions. The General Assembly may enact laws necessary and expedient for the maintenance and management of The University of North Carolina and the other public institutions of higher education.

Sec. 9. Benefits of public institutions of higher education. The General Assembly shall provide that the benefits of The University of North Carolina and other public institutions of higher education, as far as practicable, be extended to the people of the State free of expense.

Sec. 10. Escheats.

(1) Escheats prior to July 1, 1971. All property that prior to July 1, 1971, accrued to the State from escheats, unclaimed dividends or distributive shares of the estates of deceased persons shall be appropriated to the use of The University of North Carolina.
(2) *Escheats after June 30, 1971.* All property that, after June 30, 1971, shall accrue to the State from escheats, unclaimed dividends, or distributive shares of the estates of deceased persons shall be used to aid worthy and needy students who are residents of this State and are enrolled in public institutions of higher education in this State. The method, amount, and type of distribution shall be prescribed by law.

**ARTICLE X**

**HOMESTEADS AND EXEMPTIONS**

**Section 1. Personal property exemptions.** The personal property of any resident of this State, to a value fixed by the General Assembly but not less than $500, to be selected by the resident, is exempted from sale under execution or other final process of any court, issued for the collection of any debt.

**Sec. 2. Homestead exemptions.**

(1) *Exemption from sale; exceptions.* Every homestead and the dwellings and buildings used therewith, to a value fixed by the General Assembly but not less than $1,000, to be selected by the owner thereof, or in lieu thereof, at the option of the owner, any lot in a city or town with the dwellings and buildings used thereon, and to the same value, owned and occupied by a resident of the State, shall be exempt from sale under execution or other final process obtained on any debt. But no property shall be exempt from sale for taxes, or for payment of obligations contracted for its purchase.

(2) *Exemption for benefit of children.* The homestead, after the death of the owner thereof, shall be exempt from the payment of any debt during the minority of the owner's children, or any of them.

(3) *Exemption for benefit of surviving spouse.* If the owner of a homestead dies, leaving a surviving spouse but no minor children, the homestead shall be exempt from the debts of the owner, and the rents and profits thereof shall inure to the benefit of the surviving spouse until he or she remarries, unless the surviving spouse is the owner of a separate homestead.

(4) *Conveyance of homestead.* Nothing contained in this Article shall operate to prevent the owner of a homestead from disposing of it by deed, but no deed made by a married owner of a homestead shall be valid without the signature and acknowledgement of his or her spouse.

**Sec. 3. Mechanics' and laborer's liens.** The General Assembly shall provide by proper legislation for giving to mechanics and laborers an adequate lien on the subject-matter of their labor. The provisions of Sections 1 and 2 of this Article shall not be so construed as to prevent a laborer's lien for work done and performed for the person claiming the exemption or a mechanic's lien for work done on the premises.

**Sec. 4. Property of married women secured to them.** The real and personal property of any female in this State acquired before marriage, and all property, real and personal, to which she may, after marriage, become in any manner entitled, shall be and remain the sole and separate estate and property of such female, and shall not be liable for any debts, obligations, or engagements of her husband, and may be devised and bequeathed and
conveyed by her, subject to such regulations and limitations as the General Assembly may prescribe. Every married woman may exercise powers of attorney conferred upon her by her husband, including the power to execute and acknowledge deeds to property owned by herself and her husband or by her husband.

Sec. 5. Insurance. A person may insure his or her own life for the sole use and benefit of his or her spouse or children or both, and upon his or her death the proceeds from the insurance shall be paid to or for the benefit of the spouse or children or both, or to a guardian, free from all claims of the representatives or creditors of the insured or his or her estate. Any insurance policy which insures the life of a person for the sole use and benefit of that person's spouse or children or both shall not be subject to the claims of creditors of the insured during his or her lifetime, whether or not the policy reserves to the insured during his or her lifetime any or all rights provided for by the policy and whether or not the policy proceeds are payable to the estate of the insured in the event the beneficiary or beneficiaries predecease the insured.

ARTICLE XI

PUNISHMENTS, CORRECTIONS, AND CHARITIES

Section 11. Punishments. The following punishments only shall be known to the laws of this State: death, imprisonment, fines, removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under this State.

Sec. 2. Death punishment. The object of punishments being not only to satisfy justice, but also to reform the offender and thus prevent crime, murder, arson, burglary, and rape, and these only, may be punishable with death, if the General Assembly shall so enact.

Sec. 3. Charitable and correctional institutions and agencies. Such charitable, benevolent, penal, and correctional institutions and agencies as the needs of humanity and the public good may require shall be established and operated by the State under such organization and in such manner as the General Assembly may prescribe.

Sec. 4. Welfare policy; board of public welfare. Beneficent provision for the poor, the unfortunate, and the orphan is one of the first duties of a civilized and a Christian state. Therefore the General Assembly shall provide for and define the duties of a board of public welfare.

ARTICLE XII

MILITARY FORCES

Section 1. Governor is Commander in Chief. The Governor shall be Commander in Chief of the military forces of the State and may call out those forces to execute the law, suppress riots and insurrections, and repel invasion.

ARTICLE XIII

CONVENTIONS; CONSTITUTIONAL AMENDMENT AND REVISION

Section 1. Convention of the People. No Convention of the People of this State shall
ever be called unless by the concurrence of two-thirds of all the members of each house of the General Assembly, and unless the proposition “Convention or No Convention” is first submitted to the qualified voters of the State at the time and in the manner prescribed by the General Assembly. If a majority of the votes cast upon the proposition are in favor of a Convention, it shall assemble on the day prescribed by the General Assembly. The General Assembly shall, in the act of submitting the convention proposition, propose limitations upon the authority of the Convention; and if a majority of the votes cast upon the proposition are in favor of a Convention, those limitations shall become binding upon the Convention. Delegates to the Convention shall be elected by the qualified voters at the time and in the manner prescribed in the act of submission. The Convention shall consist of a number of delegates equal to the membership of the House of Representatives of the General Assembly that submits the convention proposition and the delegates shall be apportioned as is the House of Representatives. A Convention shall adopt no ordinance not necessary to the purpose for which the Convention has been called.

SEC. 2. Power to revise or amend Convention reserved to people. The people of this State reserve the power to amend this Constitution and to adopt a new or revised Constitution. This power may be exercised by either of the methods set out hereinafter in this Article, but in no other way.

SEC. 3. Revision or amendment by Convention of the People. A Convention of the People of this State may be called pursuant to Section I of this Article to propose a new or revised Constitution or to propose amendments to this Constitution. Every new or revised Constitution and every constitutional amendment adopted by a Convention shall be submitted to the qualified voters of the State at the time and in the manner prescribed by the Convention. If a majority of the votes cast thereon are in favor of ratification of the new or revised Constitution or the constitutional amendment or amendments, it or they shall become effective January first next after ratification by the qualified voters unless a different effective date is prescribed by the Convention.

SEC. 4. Revision or amendment by legislative initiation. A proposal of a new or revised Constitution or an amendment or amendments to this Constitution may be initiated by the General Assembly, but only if three-fifths of all the members of each house shall adopt an act submitting the proposal to the qualified voters of the State for their ratification or rejection. The proposal shall be submitted at the time and in the manner prescribed by the General Assembly. If a majority of the votes cast thereon are in favor of the proposed new or revised Constitution or constitutional amendment or amendments, it or they shall become effective January first next after ratification by the voters unless a different effective date is prescribed in the act submitting the proposal or proposals to the qualified voters.

ARTICLE XIV

MISCELLANEOUS

SECTION 1. Seat of government. The permanent seat of government of this State shall be at the City of Raleigh.

SEC. 2. State boundaries. The limits and boundaries of the State shall be and remain as they now are.

SEC. 3. General laws defined. Whenever the General Assembly is directed or authorized by this Constitution to enact general laws, or general laws uniformly applicable
throughout the State, or general laws uniformly applicable in every county, city and town, and other unit of local government, or in every local court district, no special or local act shall be enacted concerning the subject matter directed or authorized to be accomplished by general or uniformly applicable laws, and every amendment or repeal of any law relating to such subject matter shall also be general and uniform in its effect throughout the State. General laws may be enacted for classes defined by population or other criteria. General laws uniformly applicable throughout the State shall be made applicable without classification or exception in every unit of local government of like kind, such as every county, or every city and town, but need not be made applicable in every unit of local government in the State. General laws uniformly applicable in every county, city and town, and other unit of local government, or in every local court district, shall be made applicable without classification or exception in every unit of local government, or in every local court district, as the case may be. The General Assembly may at any time repeal any special, local, or private act.

SEC. 4. Continuity of laws; protection of office holders. The laws of North Carolina not in conflict with this Constitution shall continue in force until lawfully altered. Except as otherwise specifically provided, the adoption of this Constitution shall not have the effect of vacating any office or term of office now filled or held by virtue of any election or appointment made under the prior Constitution of North Carolina and the laws of the State enacted pursuant thereto.

SEC. 5. Conservation of natural resources. It shall be the policy of this State to conserve and protect its lands and waters for the benefit of all its citizenry, and to this end it shall be a proper function of the State of North Carolina and its political subdivisions to acquire and preserve park, recreational, and scenic areas, to control and limit the pollution of our air and water, to control excessive noise, and in every other appropriate way to preserve as a part of the common heritage of this State its forests, wetlands, estuaries, beaches, historical sites, openlands, and places of beauty.

To accomplish the aforementioned public purposes, the State and its counties, cities and towns, and other units of local government may acquire by purchase or gift properties or interests in properties which shall, upon their special dedication to and acceptance by resolution adopted by a vote of three-fifths of the members of each house of the General Assembly for those public purposes, constitute part of the “State Nature and Historic Preserve”, and which shall not be used for other purposes except as authorized by the law enacted by a vote of three-fifths of the members of each house of the General Assembly. The General Assembly shall prescribe by general law the conditions and procedures under which such properties or interests therein shall be dedicated for the aforementioned public purposes.
S. B. 9  

CHAPTER 1

AN ACT TO CHANGE THE TIME OF ELECTION, NUMBER AND TERMS OF OFFICE OF THE MEMBERS OF THE BURKE COUNTY PUBLIC SCHOOLS BOARD OF EDUCATION.

Whereas, in the "Plan of Merger and Consolidation of Burke County Board of Education, Morganton Graded School District (Morganton City Schools) and Glen Alpine Graded School District (Glen Alpine City Schools) to Create and Establish One Administrative Unit for All Three of the Burke County School Units in Burke County", dated the 28th day of April, 1969, adopted and having the authority of law pursuant to G.S. 115-74.1, provision was made for the election, number, terms of office, and powers and duties of the members of the Burke County Public Schools Board of Education; and

Whereas, it is in the best interest of the general public of Burke County and public education in Burke County that the Plan of Merger and Consolidation be changed and amended in the form and manner hereinafter set forth; and

Whereas, pursuant to G.S. 115-74.1 the Plan of Merger and Consolidation shall not be changed or amended except by an act of the General Assembly; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The "Plan of Merger and Consolidation of Burke County Board of Education, Morganton Graded School District (Morganton City Schools) and Glen Alpine Graded School District (Glen Alpine City Schools) and to Create and Establish One Administrative Unit for All Three of the Burke County School Units in Burke County" is rewritten in its entirety to read:

"BURKE COUNTY PUBLIC SCHOOLS BOARD OF EDUCATION.

"Section 1. How constituted. (a) The Burke County Public Schools Board of Education (hereinafter, the 'Board') shall consist of seven members elected by the voters of Burke County at large for terms of four years.

(b) There shall be three Burke County Public Schools Board of Education Election Districts (hereinafter, 'election districts'), designated, respectively, as
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the Eastern Election District, the Central Election District, and the Western Election District. The geographical boundaries of the three election districts shall be identical to the ‘high school attendance zones’ established pursuant to the Plan of Merger and Consolidation of Burke County Board of Education, Morganton Graded School District (Morganton City Schools) and Glen Alpine Graded School District (Glen Alpine City Schools) and to Create and Establish One Administrative Unit for All Three of the Burke County School Units in Burke County, (hereinafter, the ‘Old Plan’), as said boundaries exist on the effective date hereof. Thereafter, and from time to time, the geographical boundaries of election districts may be altered and adjusted by the Board so as to include in each roughly equal populations.

   (c) Membership of the Board at all times shall consist of two residents from each election district and one member (referred to as the ‘at large member’) who resides in Burke County, without regard to his residency within a particular election district.

   Sec. 2. How elected. (a) The Board shall be elected on a nonpartisan basis biennially the first Tuesday after the first Monday in November in odd-numbered years. The names of the candidates shall be printed on ballots without reference to any party affiliation, and any qualified voter residing in Burke County shall be entitled to vote such ballots. Except as herein provided, the election shall be held, conducted, and supervised by the Burke County Board of Elections under the laws and regulations providing for the election of county officers.

   (b) The terms of office of the members shall be staggered so as nearly equal one-half as possible shall expire every two years, and the term of one of the two members from each election district shall expire every two years.

   (c) A candidate must have been a resident of the election district for at least 30 days prior to the date of election in order to be eligible to run for a vacated seat in that election district.

   (d) Ballots shall list candidates for membership on the Board and shall designate the specific election district, or at large member’s seat (as the case may be) for which the candidates have filed.

   (e) The candidate receiving the highest number of votes among candidates having filed for election from each respective election district (or in the case of election of two members from an election district, the two candidates receiving the highest number of votes) shall be elected. The candidate receiving the highest number of votes among candidates having filed for election as at large member shall be elected.

   (f) All candidates for membership on the Board shall file with the Burke County Board of Elections a notice of such candidacy at any time after 12:00 noon on the Friday preceding the eighth Saturday and before 12:00 noon on the Friday preceding the fifth Saturday before the date on which the election is to be held. Each candidate shall pay a filing fee of ten dollars ($10.00). Each candidate shall certify in writing that he is a bona fide resident of Burke County and a qualified registered voter therein. Each candidate for election to an election district seat shall, in addition, certify in writing that he is, and has been for 30 days prior to the election, a bona fide resident of the election district he filed to represent. Filings of such notices shall be with the Burke County Board of Elections.
(g) All persons registered and qualified to vote in Burke County in accordance with Chapter 163 of the General Statutes shall be qualified to vote in the election for membership to the Board.

(b) Each member of the Board, elected from and to represent an election district, shall remain a resident of such election district for the term of his office. In the event that a member becomes no longer a resident of such election district, or in the event that the boundaries of the election districts are changed so that he is no longer a resident within such election district, then his term of office on the Board shall expire and his seat shall be vacated.

(i) In the event of a vacancy on the Board by reason of death, resignation, failure to meet the election district residency requirement, or for any other reason other than expiration of the regular term (hereinafter referred to as a ‘vacated seat’), the remaining members of the Board shall elect a qualified person to serve in the vacated seat (such person being herein referred to as the ‘replacement member’). If such vacated seat is that of a member elected to represent an election district, the replacement member shall be a person qualified to be elected to represent the election district of the vacated seat. The term of office of the replacement member shall in all cases expire on the date of the next election of members of the Board. If the term of office of the holder of the vacated seat would have otherwise expired as of the date of the next election, there shall be elected for said seat at the next election a member whose term shall be the regular four years. If, however, the term of office of the holder of the vacated seat would have otherwise expired as of the date of the second succeeding election (i.e., said term having more than two years remaining as of the time the seat is vacated), there shall be elected for said seat at the next election a member whose term shall be two years. If in such latter case there is the necessity of electing at one election two members to represent one election district, the candidate from said election district receiving the highest number of votes shall serve a term of four years, and the candidate from said election district receiving the second highest number of votes shall serve a term of two years.

(j) Notwithstanding the foregoing provisions of this section, it is provided as follows:

(1) Pursuant to the Old Plan, the terms of office of four of the 12 members of the Burke County Public Schools Board of Education (hereinafter, the ‘Old Board’) shall expire at 12:00 noon on the first Monday of April, 1981. There shall be no election of board members in March, 1981 (as would otherwise have been pursuant to the Old Plan). From and after said time and date and continuing through 12:00 noon on the first Monday in December, 1981, the Old Board shall consist of the eight members remaining thereupon. The provisions of the Old Plan as to selection and duties of a chairman and vice-chairman, voting rights of chairman, filling of vacant seats, and such other provisions of the Old Plan as may reasonably be appropriate for the conduct of said Old Board business shall continue in effect until 12:00 noon on the first Monday in December, 1981; provided, however, that five members of the full membership of said eight-member Old Board shall constitute a quorum, and such quorum shall be necessary to transact any official business of the Old Board.
(2) The terms of office of those persons elected to the Old Board pursuant to the Old Plan whose terms were due to expire under the Old Plan on March 31, 1983, are shortened and shall end at 12:00 noon on the first Monday in December, 1981.

(3) The terms of office of those persons elected to the Old Board pursuant to the Old Plan whose terms were due to expire under the Old Plan on March 31, 1985, are shortened and shall end at 12:00 noon on the first Monday in December, 1983.

(4) For purposes of this subsection, persons elected pursuant to the Old Plan to represent, respectively, the eastern, central, and western 'high school attendance zones' shall be deemed to occupy the respective seats from the Eastern, Central, and Western Election Districts.

(5) There shall be elected in the November, 1981, election, to be conducted pursuant to the provisions hereof, one person from, and to represent, the Eastern, Central, and Western Election Districts.

(6) At the meeting of the Board on the first Monday in December, 1981, lots shall be drawn so as to determine as between the two members elected pursuant to the Old Plan to represent the eastern 'high school attendance zones' which of them shall thereafter be deemed to have been elected to represent the Eastern Election District, and which of them shall thereafter be deemed to have been elected to the at-large seat. Said determination shall be recorded in the minutes of the meeting and, said members shall serve in accordance therewith.

Sec. 3. Members to qualify. Those persons who shall be elected members of the Board must qualify by taking the oath of office on or before the first Monday in December next succeeding their election. A failure to qualify within that time shall constitute a vacancy which shall be filled as set out in Section 2, subsection (i). Those persons appointed to fill a vacancy must qualify within 30 days after notification. A failure to qualify within that time shall constitute a vacancy.

Sec. 4. Organization of Board. At the first meeting of the Board in December of each year, the members of the Board shall organize by electing one of their members as chairman and one of their members as vice-chairman, each to serve in said office for a period of one year or until his successor is elected and qualified. The chairman, or in his absence or sickness, the vice-chairman, shall preside at the meetings of the Board. In the event of absence or sickness of both the chairman and vice-chairman, the Board may appoint one of its members as temporary chairman. The Superintendent of the Burke County Public Schools shall be ex officio secretary to the Board but shall have no vote. In the event of a vacancy in the superintendency, the Board may elect one of its members to serve temporarily as secretary to the Board.

Sec. 5. Quorum. Four members of the full membership of the Board shall constitute a quorum, and such quorum shall be necessary to transact any official business of the Board.

Sec. 6. Compensation of Board members. Upon approval of the Board, individual members of the Board shall be compensated for travel or subsistence when such expenditure occurs in connection with the conduct of official Board business. (This section shall not constitute a limitation upon the provisions of G.S. 115-29.)
Sec. 7. Legal status as body corporate; title to property; obligations. For the purposes of title to property, both real and personal, obligations and rights pursuant to contractual and other agreements, and all other matters involving its legal status or character as a body politic and corporate, the Board shall be deemed to be, and is the same body politic and corporate as the Burke County Public Schools Board of Education referred to in the Old Plan.

Sec. 8. Powers and duties. In addition to the powers and duties of the Board herein set forth, the Board shall have, possess, and be charged with all of the powers and duties of boards of education provided for in Chapter 115 of the General Statutes of North Carolina which are not inconsistent or in conflict herewith. Each of the provisions of said Chapter 115 shall apply to the conduct of the Board of its official business and its operation of the Burke County Public Schools except as to such matters for which specific provision is made herein.

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 30th day of January, 1981.

H. B. 12
CHAPTER 2
AN ACT TO REPEAL THE THREE PERCENT GROSS RECEIPTS TAX ON PRIVATE TOLL BRIDGES.

The General Assembly of North Carolina enacts:

Section 1. The last sentence of the third paragraph of G.S. 105-37.1(a) is repealed.

Sec. 2. This act shall become effective July 1, 1981.
In the General Assembly read three times and ratified, this the 5th day of February, 1981.

H. B. 13
CHAPTER 3
AN ACT TO REPEAL COLLECTION PROCEDURES FOR THE STATE PROPERTY TAX FOR THE 1931-33 BIENNIAL, AND TO ELIMINATE AN ANNUAL COUNTY REPORT ON COLLECTION OF THAT TAX.

The General Assembly of North Carolina enacts:

Section 1. The second and third paragraphs of G.S. 105-248 are repealed.

Sec. 2. This act shall become effective July 1, 1981.
In the General Assembly read three times and ratified, this the 5th day of February, 1981.
CHAPTER 4

H. B. 16

CHAPTER 4

AN ACT TO PROVIDE A MECHANISM FOR DISTRIBUTION OF INTANGIBLES TAX, LOCAL GOVERNMENT SALES AND USE TAX, AND MECKLENBURG COUNTY SALES AND USE TAX WHEN THE VALUATION OF A PUBLIC SERVICE COMPANY IS UNDER APPEAL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-213(a) is amended by adding the following sentence at the end of the fourth paragraph:

"For the purpose of computing the distribution of the intangibles tax to any county and the municipalities located therein for any year with respect to which the property valuation of a public service company is the subject of an appeal pursuant to the provisions of the Machinery Act, or to applicable provisions of federal law, and the Department of Revenue is restrained by operation of law or by a court of competent jurisdiction from certifying such valuation to the county and municipalities therein, the department shall use the last property valuation of such public service company which has been so certified in order to determine the ad valorem tax levies applicable to such public service company in the county and the municipalities therein."

Sec. 2. G.S. 105-472(2) is amended by adding the following sentence at the end:

"For the purpose of computing the distribution of the tax under this subsection to any county and the municipalities located therein for any quarter with respect to which the property valuation of a public service company is the subject of an appeal pursuant to the provisions of the Machinery Act, or to applicable provisions of federal law, and the Department of Revenue is restrained by operation of law or by a court of competent jurisdiction from certifying such valuation to the county and the municipalities therein, the department shall use the last property valuation of such public service company which has been so certified in order to determine the ad valorem tax levies applicable to such public service company in the county and the municipalities therein."

Sec. 3. Chapter 1096 of the 1967 Session Laws is amended by adding the following sentence to the end of Section 9:

"For the purpose of computing the distribution of the tax under this section to Mecklenburg County and the municipalities located therein for any quarter with respect to which the property valuation of a public service company is the subject of an appeal pursuant to the provisions of the Machinery Act, or to applicable provisions of federal law, and the Department of Revenue is restrained by operation of law or by a court of competent jurisdiction from certifying such valuation to the county and the municipalities therein, the Department shall use the last property valuation of such public service company which has been so certified in order to determine the ad valorem tax levies applicable to such public service company in the county and the municipalities therein."

Sec. 4. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 5th day of February, 1981.
H. B. 36  
CHAPTER 5
AN ACT TO REPEAL THE PRIVILEGE LICENSE TAX FOR THOSE REPAIRING AND SERVICING ELEVATORS AND AUTOMATIC SPRINKLER SYSTEMS.

The General Assembly of North Carolina enacts:
Section 1. G.S. 105-56 is repealed.
Sec. 2. This act shall become effective July 1, 1981.
In the General Assembly read three times and ratified, this the 5th day of February, 1981.

H. B. 37  
CHAPTER 6
AN ACT TO REPEAL THE PRIVILEGE LICENSE TAX ON MOTOR ADVERTISERS.

The General Assembly of North Carolina enacts:
Section 1. G.S. 105-87 is repealed.
Sec. 2. This act shall become effective July 1, 1981.
In the General Assembly read three times and ratified, this the 5th day of February, 1981.

H. B. 38  
CHAPTER 7
AN ACT TO REPEAL THE PRIVILEGE LICENSE TAX ON ITINERANT PHOTOGRAPHERS.

The General Assembly of North Carolina enacts:
Section 1. G.S. 105-48.1 is repealed.
Sec. 2. This act shall become effective July 1, 1981.
In the General Assembly read three times and ratified, this the 5th day of February, 1981.

S. B. 17  
CHAPTER 8
AN ACT TO CHANGE THE STANDARDS FOR CRIMINAL JUSTICE OFFICERS TO PROVIDE FOR PARDONS TO BE GIVEN EFFECT BY THE NORTH CAROLINA CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION.

The General Assembly of North Carolina enacts:
Section 1. G.S. 17C-10(c) is amended by adding a sentence at the end of the first paragraph to read:
"When a person presents competent evidence that he has been granted an unconditional pardon, to include but not be limited to a Pardon of Forgiveness, for a crime in this State, any other state, or the United States, the Commission shall not deny, suspend, or revoke that person’s certification based solely on the commission of that crime or an alleged lack of good moral character due to the commission of that crime."
Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 6th day of February, 1981.
CHAPTER 9

S. B. 38

CHAPTER 9

AN ACT TO CLARIFY THE EXEMPTION PROCEDURE FOR JURY DUTY FOR PERSONS AGED SIXTY-FIVE OR OVER.

The General Assembly of North Carolina enacts:

Section 1. G.S. 9-6.1 is amended by deleting the following words "chief judge of the district court of the judicial district", and inserting in lieu thereof the words "chief district judge of that district, or the district judge designated by him pursuant to G.S. 96(b)".

Sec. 2. G.S. 9-6.1 is amended by adding at the end the following language: "In case the chief district judge, or the judge designated by him pursuant to G.S. 96(b), shall reject the request for exemption, the prospective juror shall be immediately notified by telephone, letter, or personally."

Sec. 3. This act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 9th day of February, 1981.

H. B. 46

CHAPTER 10

AN ACT TO AMEND CHAPTER 93, ENTITLED "PUBLIC ACCOUNTANTS".

The General Assembly of North Carolina enacts:

Section 1. G.S. 93-12(6) is amended by deleting from the first sentence the following phrase: "; or who shall hold valid and unrevoked certificates or degrees as certified public accountants, or the equivalent, issued under authority granted by a foreign nation;" and inserting in lieu thereof a comma.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of February, 1981.

H. B. 10

CHAPTER 11

AN ACT TO PERMIT THE CITY OF WILSON TO PARTICIPATE IN THE URBAN DEVELOPMENT ACTION PROGRAM AND TO LEND OR GRANT THE MONEYS RECEIVED FROM THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TO PRIVATE DEVELOPERS.

Whereas, the Congress of the United States enacted the Housing and Community Development Act of 1977 (Public Law 95-128) authorizing the Secretary of Housing and Urban Development to make Urban Development Action Grants to distressed cities and towns which require increased public assistance and private investment to alleviate physical and economic deterioration; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 1190, Session Laws of 1979 (Second Session, 1980) is amended by adding immediately after the words "City of Clinton" the words, "City of Wilson".

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 10th day of February, 1981.

H. B. 69  CHAPTER 12
AN ACT TO AMEND G.S. 50-10 TO CLARIFY THAT NOTICE OF TRIAL NOT REQUIRED WHEN DEFENDANT DOES NOT MAKE AN APPEARANCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 50-10 is amended by adding the following new sentence at the end of the first sentence:

"Nothing herein shall require notice of trial to be given to a defendant who has not made an appearance in the action."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of February, 1981.

H. B. 17  CHAPTER 13
AN ACT TO UPDATE THE PROVISIONS OF G.S. 105-163.2 RELATING TO WITHHOLDING OF INCOME TAXES BY EMPLOYERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-163.2(a) is amended by deleting the words "ten percent (10%) thereof, but not exceeding five hundred dollars ($500.00) per calendar year," and inserting in lieu thereof the words "the amount of the standard deduction allowed under G.S. 105-147(22)".

Sec. 2. This act is effective for taxable years beginning on or after January 1, 1980.

In the General Assembly read three times and ratified, this the 12th day of February, 1981.

H. B. 28  CHAPTER 14
AN ACT TO CLARIFY THE SALES TAX STATUS OF NEWSPAPER AND MAGAZINE DELIVERIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.13(28) is rewritten to read:

"(28) Sales of newspapers by newspaper street vendors and by newspaper carriers making door-to-door deliveries and sales of magazines by magazine vendors making door-to-door sales."

Sec. 2. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 12th day of February, 1981.
CHAPTER 15  Session Laws—1981

H. B. 25  CHAPTER 15
AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE WHICH IS USED BY CORPORATIONS AS A BASE FOR DETERMINING STATE NET INCOME.

The General Assembly of North Carolina enacts:

Section 1. The first paragraph of G.S. 105-130.3 is amended by deleting the words "as defined in the Internal Revenue Code in effect on January 1, 1979", and inserting in lieu thereof the words "as defined in the Internal Revenue Code in effect on January 1, 1981".

Sec. 2. This act shall become effective for taxable years beginning on and after January 1, 1981.

In the General Assembly read three times and ratified, this the 13th day of February, 1981.

H. B. 26  CHAPTER 16
AN ACT TO REPEAL THE AUTHORITY OF COUNTIES TO EXEMPT FROM THE STATE PRIVILEGE LICENSE TAX ON PEDDLERS CERTAIN CONFEDERATE AND SPANISH-AMERICAN WAR VETERANS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 10553(f) is amended by deleting the words "Confederate soldiers, disabled veterans of the Spanish-American War, ".

Sec. 2. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 13th day of February, 1981.

H. B. 27  CHAPTER 17
AN ACT TO REPEAL THE HALF-PRICE PRIVILEGE LICENSE FOR CERTAIN PROFESSIONALS EARNING LESS THAN ONE THOUSAND DOLLARS ($1,000) PER YEAR.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-41(f) is repealed.

Sec. 2. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 13th day of February, 1981.

H. B. 29  CHAPTER 18
AN ACT TO CLARIFY THAT THE SPECIAL USE TAX ON EQUIPMENT BROUGHT INTO THE STATE FOR RAILROAD CONSTRUCTION APPLIES TO ALL TYPES OF RAILWAYS, AND MAKE A SIMILAR AMENDMENT AS TO THE PRIVILEGE TAX.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.6(8) and G.S. 105-54 are each amended by deleting the words "electric or steam railway", and inserting in lieu thereof the word "railway".

Sec. 2. This act shall become effective July 1, 1981.
In the General Assembly read three times and ratified, this the 13th day of February, 1981.

H. B. 74 \hspace{1cm} \textbf{CHAPTER 19}
AN ACT TO CLARIFY THE AUTHORITY OF LOCAL BOARDS OF EDUCATION TO ENTER INTO LEASES WITH OTHER GOVERNMENTAL UNITS.

The General Assembly of North Carolina enacts:

\textbf{Section 1.} G.S. 115-126(e) as the same now appears in 1978 Replacement Volume 3A, Part II, is hereby amended by rewriting the last sentence thereof to read:

"Nothing in this subsection shall invalidate any local act authorizing the lease of any such property or in any way limit the authority of local boards of education to enter into leases with other governmental units pursuant to G.S. 160A-274."

\textbf{Sec. 2.} This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of February, 1981.

H. B. 98 \hspace{1cm} \textbf{CHAPTER 20}
AN ACT TO FURTHER VALIDATE DISSOLUTION OF SANITARY DISTRICTS.

The General Assembly of North Carolina enacts:

\textbf{Section 1.} G.S. 130-153 is amended by deleting the words "April 1, 1957", and inserting in lieu thereof the words "January 1, 1981".

\textbf{Sec. 2.} G.S. 130-153 is amended by adding immediately after the words "State Board of Health" the words "or Commission for Health Services".

\textbf{Sec. 3.} This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of February, 1981.

H. B. 105 \hspace{1cm} \textbf{CHAPTER 21}
AN ACT TO GIVE COUNTY BOARDS OF COMMISSIONERS THE SAME FLEXIBILITY AS CITIES IN DETERMINING THE NUMBER OF MEMBERS OF A HOUSING AUTHORITY BOARD OF COMMISSIONERS.

The General Assembly of North Carolina enacts:

\textbf{Section 1.} The third paragraph of G.S. 157-33 is amended by deleting the words "five commissioners", and inserting in lieu thereof the words "not less than five nor more than nine commissioners".

\textbf{Sec. 2.} G.S. 157-34 is amended by adding after the first sentence the following new sentence: "The board of county commissioners may at any time by resolution or ordinance increase or decrease the membership of an authority, within the limitations prescribed in G.S. 157-33."

\textbf{Sec. 3.} This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of February, 1981.
CHAPTER 22  Session Laws—1981

S. B. 13  CHAPTER 22
AN ACT TO REPEAL CERTAIN SPECIAL SERVICE EXTENSIONS AT THE CITY OF ASHEVILLE AIRPORT BECAUSE THE AREA HAS BEEN ANNEXED.

The General Assembly of North Carolina enacts:

Section 1. Chapter 1141, Session Laws of 1959, is repealed.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of February, 1981.

S. B. 19  CHAPTER 23
AN ACT TO ALLOW THE ASHEVILLE CITY COUNCIL TO CLOSE PARKS AND OTHER RECREATION FACILITIES AND SELL, LEASE OR OTHERWISE DISPOSE OF THE PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-353 is amended by adding a new subdivision to read:

“(4a) Notwithstanding the other provisions of this Article, by action of the governing board, to discontinue the operation of or close parks, playgrounds, recreational centers and other recreational programs and facilities, and dispose of such facilities and property by gift, grant, sale, lease or by any other lawful method.”

Sec. 2. This act applies only to the City of Asheville.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of February, 1981.

S. B. 21  CHAPTER 24
AN ACT TO ALLOW THE CITY OF ASHEVILLE TO FOLLOW THE GENERAL LAW CONCERNING ADVERTISEMENT OF PROPERTY LEASES.

The General Assembly of North Carolina enacts:

Section 1. Section 2, Chapter 174, Private Laws of 1931, as amended by Section 1, Chapter 184, Private Laws of 1931, is rewritten to read:

“Section 2. Before any lease of any property owned by the city in compliance with and under the terms of this section shall be made, executed, and delivered the same shall be advertised in a manner consistent with the General Laws of North Carolina relating to the lease of property owned by municipalities.”

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of February, 1981.
S. B. 53

CHAPTER 25
AN ACT TO AMEND THE CHARTER OF THE CITY OF ASHEVILLE RELATING TO THE EFFECTIVE DATE OF ORDINANCES.

The General Assembly of North Carolina enacts:

Section 1. Section 15 of Chapter 121, Private Laws of 1931, being the charter of the City of Asheville, is rewritten to read:

"Section 15. Ordinances and resolutions; effective date. Ordinances and resolutions shall take effect at the time indicated therein."

Sec. 2. Section 16 of Chapter 121, Private Laws of 1931, is repealed.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of February, 1981.

H. B. 106

CHAPTER 26
AN ACT TO PROVIDE THAT IF VACANCIES OCCUR IN THE TWO REMAINING APPOINTIVE POSITIONS ON THE GREENSBORO CITY BOARD OF EDUCATION, THEY SHALL NOT BE FILLED.

The General Assembly of North Carolina enacts:

Section 1. Section 2.3 of the Greensboro Public School Code (Section 4 of Chapter 385, Session Laws of 1949) as rewritten by Section 3 of Chapter 181, Session Laws of 1979, is amended by adding the following new language at the end:

"If a vacancy occurs because JoAnn Scoggin or James P. Davis no longer serve as an appointed member as provided in Section 1 of Chapter 181, Session Laws of 1979, such vacancy shall not be filled."

Sec. 2. Section 2.2(a) of the Greensboro Public School Code as rewritten by Section 2 of Chapter 181, Session Laws of 1979 is amended by deleting the next to last sentence and inserting in lieu thereof the following:

"The board shall be composed of seven members, plus either or both JoAnn Scoggin and James P. Davis, if they remain eligible and elect to serve out the appointed term."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of February, 1981.

S. B. 22

CHAPTER 27
AN ACT TO AMEND THE CHARTER OF THE CITY OF ASHEVILLE RELATING TO THE ORGANIZATION OF CITY DEPARTMENTS.

The General Assembly of North Carolina enacts:

Section 1. Section 26 of Chapter 121, Private Laws of 1931, being the Charter of the City of Asheville, as amended by Section 1, Chapter 791, Session Laws of 1955, is rewritten to read:

"Sec. 26. Departments Generally. The city council, after hearing recommendations by the city manager, shall by resolution establish and designate departments of the city and may, from time to time, upon the recommendation of the city manager, abolish, redesignate, reorganize, restructure, reestablish and otherwise change such departments to promote
efficiency in the administration of the city government. Nothing in this section shall prevent the council, by a two-thirds vote of its members, from authorizing and directing the execution of a contract with Buncombe County for the joint performance of similar administrative duties and functions of said county and city by consolidating the agencies thereof by which such functions are, at the time of making such an agreement, being performed and authorizing their subsequent joint operation as one agency at joint expense, or for the performance of said administrative functions for the benefit of both said city and Buncombe County by one of such agencies at joint expense, whenever in the judgement of the council such action is deemed for the best interest of the City of Asheville.”

Sec. 2. The last sentence of Section 27, Chapter 121, Private Laws of 1931, is repealed.

Sec. 3. Sections 31, 32, 33, 34, 37, 38 and 39, Chapter 121, Private Laws of 1931, are repealed.

Sec. 4. Section 2, Chapter 186, Private Laws of 1931, is amended by deleting the words “Department of Public Safety,” and inserting in lieu thereof the words “Police Department.”

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of February, 1981.

H. B. 14

CHAPTER 28


The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 356, Session Laws of 1979, is amended by adding the following new language at the end of that section: “Notwithstanding the amendment made to G.S. 105-277.1(c) by the first section of this act, applications for the exclusion provided by G.S. 105-277.1 for calendar year 1980 shall also be accepted as timely filed if filed at any time from April 16, 1980, through April 15, 1981. A properly completed application for calendar year 1980 received on or after April 16, 1980, but before April 16, 1981, shall constitute a request for release or refund, as provided in G.S. 105-381.”

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of February, 1981.
H. B. 24

CHAPTER 29

AN ACT TO PROVIDE THAT THE MACON COUNTY BOARD OF
EDUCATION SHALL TAKE OFFICE IN DECEMBER FOLLOWING
THE ELECTION, AND TO PROVIDE THAT VACANCIES OCCURRING
IN THE FIRST TWO YEARS OF A TERM SHALL BE FILLED BY
APPOINTMENT ONLY UNTIL THE NEXT ELECTION.

The General Assembly of North Carolina enacts:

Section 1. Section 6 of Chapter 1148, Session Laws of 1977 (Second
Session 1978) is rewritten to read:

"The members of the Board of Education of Macon County, elected in 1982
and biennially thereafter, shall be inducted into and take their oath of office on
the first Monday in December following their election and shall serve until
their successors are elected and qualified."

Sec. 2. The term of office of the member elected to the Board of
Education of Macon County in 1976 shall expire on the first Monday in
December of 1982. The terms of office of those elected to the Board of
Education of Macon County in 1980 for four-year terms shall expire on the first
Monday in December in 1984. The term of office of the member elected to a
two-year term in 1980 shall expire on the first Monday in December of 1982.

Sec. 3. Section 7 of Chapter 1148, Session Laws of 1977 (Second Session
1978) is amended by inserting immediately after the words "for the unexpired
term" in both places the words "or, if the vacancy occurs more than 90 days
before a general election other than the one at which a successor was scheduled
to be elected, the appointment shall be until the next general election, at which
time the remaining unexpired term of the office shall be filled by election".

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of
February, 1981.

S. B. 16

CHAPTER 30

AN ACT TO AMEND G.S. 20-218 TO PERMIT SCHOOL BUSES THAT DO
NOT PICK UP CHILDREN ON PUBLIC HIGHWAYS TO OPERATE AT
45 M.P.H.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-218(b) is amended by adding a new subdivision to
read:

"(3) For private school buses that pick up children at a central point and
deposit the children at a single school, without picking up children along the
way, it shall be unlawful to operate the buses at a greater rate of speed than 45
miles per hour."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of
February, 1981.
CHAPTER 31  Session Laws—1981

S. B. 35  CHAPTER 31

AN ACT TO INCORPORATE THE TOWN OF GAMEWELL IN CALDWELL COUNTY, SUBJECT TO A REFERENDUM.

The General Assembly of North Carolina enacts:

Section 1. Incorporation. The inhabitants of the Town of Gamewell are a body corporate and politic under the name of "Town of Gamewell". Under that name, they have all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general laws of North Carolina.

Sec. 2. Corporate boundaries. Until modified in accordance with law, the boundaries of the Town of Gamewell are as follows:

"BEGINNING at the center of Highway 18 in a culvert over Greasy Creek on Highway 18 approximately 100 yards South of Lenoir City Limits and 100 feet East of a Shell Service Station on Highway 18 and following Greasy Creek South approximately 500 yards to the intersection of Greasy Creek with Lower Creek; thence East approximately 300 yards to the corner of the Lenoir City Limits and Filter Plant property line then following the Lenoir City Limits Line to the Miller Hill Road, RPR #1146; thence 500 feet East; thence Southwest with a line parallel to the Miller Hill Road and remaining 500 feet from Miller Hill Road approximately 2 1/2 miles to the point 500 feet Southeast of the intersection of the Rocky Road with the Miller Hill Road; thence continuing Southwest to a point in the center of the Calico Road; thence in a Northerly direction with the center of Calico Road to a point in the center of Lower Creek where the Calico Road crosses Lower Creek; thence down and with the meanders of Lower Creek to a point in the center of the creek where Lower Creek intersects with Husband Creek; thence up the meanders of Husband Creek crossing under Highway 18 and the old Morganton Road to a point in the center of Husband Creek the corner of the Joe Phelps property; thence leaving Husband Creek and following the property lines and calls of the Joe Phelps property and with these calls until they again intersect with Husband Creek; thence again following Husband Creek to a point in the center of the Sheely Road, SR #1387; thence due East to the property line of the West Caldwell High School property; thence following the common property line of the West Caldwell High School property and lines South and East to a point in the Greasy Creek; thence with Greasy Creek down the meanders of Greasy Creek in a southerly direction to the point of BEGINNING."

Sec. 3. Elected officers. The elected officers of the town shall be a Board of Commissioners composed of five members and a Mayor elected by the voters of the town. The term of the Mayor shall be two years, and after the initial election as provided for hereinafter, the terms of members of the Board of Commissioners shall be four years.

At the first municipal election held on the date required by G.S. 163-279(a)(2), the three candidates for commissioner receiving the largest number of votes, shall be elected for four-year terms; the two candidates for commissioner receiving the next largest number of votes shall be elected for two-year terms. At the following municipal election and quadrennially thereafter, two commissioners shall be elected for four-year terms. At the second following municipal election and quadrennially thereafter, three commissioners shall be elected for four-year terms.
Sec. 4. Election method. The officers of the town shall be elected by the nonpartisan plurality method as provided in G.S. 163-292.

Sec. 5. Mayor-council form. The town shall operate under the mayor-council form of government in accordance with Part 3 of Article 7 of Chapter 160A of the General Statutes.

Sec. 6. Election laws. Elections in the Town of Gamewell shall be conducted in accordance with Subchapter IX of Chapter 163 of the General Statutes.

Sec. 7. Interim budget. The Board of Commissioners and Mayor may adopt a budget ordinance for the 1981-82 fiscal year, following their qualification for office, without having to comply with the budget preparation and adoption timetable set out in the Local Government Budget and Fiscal Control Act. If the initial budget is adopted after November 1, 1981, then taxes may be paid at par on face amount within 90 days of adoption of the budget, and thereafter according to the schedule in G.S. 105-360 as if the taxes had been due on September 1, 1981.

Sec. 8. Special election for approval. (a) The Board of Elections in Caldwell County is hereby authorized and directed to call and conduct a special election on a date to be set by the Caldwell County Board of Commissioners, but not earlier than 90 days after ratification of this act and no later than 280 days after ratification of this act for the purpose of submitting to the qualified voters of the area heretofore described as the proposed corporate limits of the Town of Gamewell, the question of whether or not such area shall be incorporated as a municipal corporation known as the Town of Gamewell. In conducting the election required to be held by this act, the Board of Elections of Caldwell County shall follow the procedures contained in G.S. 163-288.2, in this act, and the procedures contained in Chapter 163 of the General Statutes of North Carolina regarding municipal elections, where the same are not in conflict with this act.

(b) In the special election, those voters who favor the incorporation of the Town of Gamewell as provided in this act shall vote a ballot upon which shall be printed the words: "FOR Incorporation of the Town of Gamewell"; and those voters who are opposed to the incorporation of the Town of Gamewell as provided in this act shall vote a ballot upon which shall be printed the words "AGAINST Incorporation of the Town of Gamewell".

If the majority of the votes cast in such special election shall be cast "AGAINST Incorporation of the Town Of Gamewell" then the provisions of Sections 1 through 7 and of Section 9 of this act shall have no force and effect.

If a majority of the votes cast in the special election shall be cast "FOR Incorporation of the Town of Gamewell", then the provisions of this act shall be in full force and effect from and after the date upon which the Caldwell County Board of Elections determines the result of the election.

Sec. 9. Vacancies. The provisions of G.S. 160A-63 shall not apply to the Town of Gamewell until after the first election for Mayor and Board of Commissioners.

Sec. 10. Effective date. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of February, 1981.
H. B. 20  

CHAPTER 32

AN ACT TO REQUIRE BOARDS OF ELECTION TO CHECK THE PARTY AFFILIATION OF CANDIDATES FILING IN PARTISAN PRIMARIES, AND TO AMEND THE CURRENT STATUTES CONCERNING MUNICIPAL ELECTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-106 is amended by adding the following new subsection:

"(f) Candidates required to file their notice of candidacy with the State Board of Elections under subsection (c) of this section shall file along with their notice a certificate signed by the chairman of the board of elections or the supervisor of elections of the county in which they are registered to vote, stating that the person is registered to vote in that county, stating the party with which the person is affiliated, and that the person has not changed his affiliation from another party or from unaffiliated within three months prior to the filing deadline under subsection (c) of this section. In issuing such certificate, the chairman or supervisor shall check the registration records of the county to verify such information. During the period commencing 36 hours immediately preceding the filing deadline the State Board of Elections shall accept, on a conditional basis, the notice of candidacy of a candidate who has failed to secure the verification ordered herein subject to receipt of verification no later than three days following the filing deadline. The State Board of Elections shall prescribe the form for such certificate, and distribute it to each county board of elections no later than the last Monday in December of each odd-numbered year."

Sec. 2. G.S. 163-106 is amended by adding a new subsection to read:

"(g) When any candidate files a notice of candidacy with a county board of elections under subsection (c) of this section or under G.S. 163-291(2), the chairman or supervisor of elections shall, immediately upon receipt of the notice of candidacy, inspect the registration records of the county, and cancel the notice of candidacy of any person who is not eligible under subsection (c) of this section. The board shall give notice of cancellation to any candidate whose notice of candidacy has been cancelled under this subsection by mail or by having the notice served on him by the sheriff."

Sec. 3. G.S. 163-294.2(b) is amended by deleting the words "after the expiration of the registration period", and inserting in lieu thereof the words "upon receipt of the notice of candidacy".

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of February, 1981.
H. B. 53  

CHAPTER 33

AN ACT TO AMEND CHAPTER 163 OF THE GENERAL STATUTES RELATIVE TO CLOSING REGISTRATION BOOKS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-59, as the same appears in the 1976 Replacement Volume 3D of the General Statutes, is amended by substituting, in the last paragraph, the words and figures “the 21st day prior to the primary” in lieu of the words and figures “21 days prior to the primary.”

Sec. 2. G.S. 163-67 (a), as the same appears in the 1979 Supplement to Volume 3D of the General Statutes, is amended by substituting the words and figures “later than the 21st day” in lieu of the words and figures “less than 21 days” where they appear in the first and fifth paragraphs of said section.

Sec. 3. G.S. 163-69.1 (b), as the same appears in the 1979 Supplement to Volume 3D of the General Statutes, is amended by substituting the words and figures “no later than the 21st day” in lieu of “no later than 21 days”.

Sec. 4. G.S. 163-74 (b), as the same appears in the 1979 Supplement to Volume 3D of the General Statutes, is amended by substituting the words and figures “no later than the 21st day” in lieu of “not less than 21 days”.

Sec. 5. G.S. 163-288 (c) (3), as the same appears in the 1976 Replacement Volume 3D of the General Statutes, is amended by substituting the words “on the 21st day” in lieu of the words and figures “21 days”.

Sec. 6. G.S. 163-288.2 (a), as the same appears in the 1979 Supplement to Volume 3D of the General Statutes, is amended by substituting the words and figures “on the 21st day” in lieu of the words and figures “21 days” as the same appears under METHOD A and METHOD B.

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of February, 1981.

H. B. 57  

CHAPTER 34

AN ACT TO AMEND G.S. 143-129 RELATING TO THE LETTING OF PUBLIC CONTRACTS BY THE CITY OF STATESVILLE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-129 is hereby amended by deleting the words and figures “five thousand dollars ($5,000)” as the same appear in line 5 and substituting in lieu thereof the words and figures “seven thousand five hundred dollars ($7,500)”.

Sec. 2. This act applies to the City of Statesville.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of February, 1981.
CHAPTER 35  Session Laws—1981

H. B. 84  CHAPTER 35

AN ACT TO PROVIDE THAT CANVASSES OF ELECTION RETURNS AND THE MEETING OF PRESIDENTIAL ELECTORS SHALL NOT TAKE PLACE IN THE STATE LEGISLATIVE BUILDING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-210 is amended by deleting the words "Hall of the House of Representatives", and inserting in lieu thereof the words "old Hall of the House of Representatives in the State Capitol".

Sec. 2. G.S. 163-188 is amended by deleting the words "in the Hall of the House of Representatives" and inserting the words "at its offices" in lieu thereof.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of February, 1981.

H. B. 97  CHAPTER 36

AN ACT TO AMEND CHAPTER 14, SECTION 344 OF THE GENERAL STATUTES REGULATING THE SALE OF ADMISSION TICKETS IN EXCESS OF THE SALE PRICE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-344 is amended by rewriting the second sentence contained therein to read as follows:

"This fee shall not exceed one dollar ($1.00) for each ticket."

Sec. 2. This act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 20th day of February, 1981.

H. B. 103  CHAPTER 37

AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO PERMIT ENCROACHMENT OF AIRSPACE ABOVE BILTMORE AVENUE IN THE CITY OF ASHEVILLE FOR CONSTRUCTION OF A HEALTH SERVICES BUILDING BRIDGE.

The General Assembly of North Carolina enacts:

Section 1. The Department of Transportation is hereby authorized and empowered to permit private use of and encroachment upon the airspace above Biltmore Avenue located inside the corporate limits of the City of Asheville for the purpose of construction and maintenance of a bridge to connect and serve a health services building known as 445 Biltmore Center and St. Joseph’s Hospital; provided, in the opinion of the Department of Transportation such bridge will not unreasonably interfere with or impair the property rights and easements of abutting owners nor unreasonably interfere with or obstruct the public use of Biltmore Avenue.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of February, 1981.
H. B. 111  CHAPTER 38
AN ACT TO AUTHORIZE THE TOWN OF CHAPEL HILL TO APPOINT A DEPUTY TOWN ATTORNEY, AND DELETE A REFERENCE TO THE APPOINTMENT DATE OF THE TOWN ATTORNEY.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Chapel Hill, as contained in Section 1 of Chapter 473, Session Laws of 1975, is amended by adding a new section to read:

"Sec. 4.5. Town attorneys. The Council shall appoint a town attorney and may appoint a deputy town attorney, who shall have full authority to exercise and perform any of the powers and duties of the town attorney as may be specified by the Council, and such assistant town attorneys as it deems necessary from time to time with such duties and responsibilities as Council may prescribe, or as required by law."

Sec. 2. The Charter of the Town of Chapel Hill is further amended in Section 3.2 by deleting the words "town attorney."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of February, 1981.

H. B. 135  CHAPTER 39
AN ACT TO ALLOW A PERSON PURGED FROM VOTER REGISTRATION FOR FAILURE TO VOTE FOR FOUR YEARS TO HAVE HIS NAME REMAIN ON THE VOTER LIST BY NOTICE SUBMITTED BY MAIL OR BY ADDRESS TRANSFER.

The General Assembly of North Carolina enacts:

Section 1. The next to the last sentence of the fourth paragraph of G.S. 163-69 is rewritten to read:

"If such person shall appear at the county board of elections office, or shall furnish evidence by mail, and show that his qualifications to register and vote in the precinct in which he is registered remain the same, or if he has moved within the county and he shall transfer his registration to the precinct in which he resides in accordance with G.S. 163-72.2, his name shall not be removed from the permanent registration records."

Sec. 2. All purges previously processed in accordance with provisions contained in this act are validated.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of February, 1981.
CHAPTER 40  Session Laws—1981

S. B. 5  CHAPTER 40
AN ACT TO PERMIT THE NASH COUNTY BOARD OF COMMISSIONERS TO APPROPRIATE ADDITIONAL FUNDS FOR INDUSTRIAL DEVELOPMENT.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 368, Session Laws of 1957, as amended by Chapter 125, Session Laws of 1979, is further amended by deleting the words "sixty thousand dollars ($60,000) annually", and inserting in lieu thereof the words "seventy-five thousand dollars ($75,000) annually".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of February, 1981.

S. B. 60  CHAPTER 41
AN ACT TO ALLOW FRANKLIN COUNTY TO FOLLOW THE GENERAL LAW CONCERNING PUBLICATION OF RULES AND REGULATIONS OF ITS BOARD OF HEALTH.

The General Assembly of North Carolina enacts:

Section 1. Section 1 1/2 of Chapter 1024, Session Laws of 1959, is repealed.

Sec. 2. This act shall become effective with respect to all rules and regulations adopted, amended, or altered beginning 30 days after ratification of this act.

In the General Assembly read three times and ratified, this the 20th day of February, 1981.

S. B. 3  CHAPTER 42
AN ACT TO AMEND G.S. 20-7 TO ALLOW A VOLUNTEER MEMBER OF A FIRE DEPARTMENT TO OPERATE A FIRE-FIGHTING VEHICLE WITH A CLASS C LICENSE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-7(a) (3) as amended by Section 3 of Chapter 667, Session Laws of 1979, is amended by deleting the first sentence and inserting in lieu thereof the following new sentence:

"Class 'C' which entitles a licensee to drive a single vehicle weighing 30,000 pounds gross vehicle weight or less; any such vehicle towing a vehicle weighing 10,000 pounds gross vehicle weight or less; a church bus, farm bus or activity bus operated for a nonprofit organization when the activity bus is operated for a nonprofit purpose; and a fire-fighting vehicle or combination of vehicles (regardless of gross vehicle weight) when operated by any volunteer member of a municipal or rural fire department in the performance of his duty."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of February, 1981.

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S. B. 56

CHAPTER 43

AN ACT TO PROVIDE THAT MEMBERS OF THE RANDOLPH COUNTY BOARD OF COMMISSIONERS SHALL RESIDE IN AND REPRESENT DISTRICTS, BUT THE QUALIFIED VOTERS OF THE ENTIRE COUNTY SHALL NOMINATE AND ELECT ALL MEMBERS.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 952, Session Laws of 1965 is rewritten to read:

"Section 1. For the purpose of representation on the Board of Commissioners of Randolph County, the county is divided into the following five districts, each of which shall have one member:

(1) District 1 - Asheboro Township;
(2) District 2 - Trinity Township;
(3) District 3 - Columbia Township, Franklinville Township, Liberty Township, and Providence Township;
(4) District 4 - Back Creek Township, Level Cross Township, New Market Township, Randleman Township, and Tabernacle Township;
(5) District 5 - Brower Township, Cedar Grove Township, Coleridge Township, Concord Township, Grant Township, New Hope Township, Pleasant Grove Township, Richland Township, and Union Township."

Sec. 2. Chapter 952, Session Laws of 1965 is amended by adding the following new sections:

"Sec. 1.1. Members of the Board of Commissioners of Randolph County shall reside in and represent the districts according to the apportionment plan provided in Section 1 of this act, but the qualified voters of the entire county shall nominate all candidates for and elect all members of the board.

"Sec. 1.2. In the 1982 election and quadrennially thereafter, members shall be elected from districts 2, 3, and 4 for four-year terms. In the 1984 election and quadrennially thereafter, members shall be elected from districts 1 and 5 for four-year terms. The two persons elected in the 1980 election shall serve until the first Monday in December 1984."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of February, 1981.
CHAPTER 44  Session Laws—1981

H. B. 147  CHAPTER 44
AN ACT TO PROVIDE FOR REQUIRED IMMUNIZATIONS OF OLDER SCHOOL CHILDREN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-90 is amended by adding a new subsection to read as follows:

“(c) All provisions of subsections (a) and (b) shall also apply to any student 18 years of age or older who attends school (K-12), whether public, private or religious.”

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of February, 1981.

H. B. 35  CHAPTER 45
AN ACT TO DELETE A REFERENCE TO VAUDEVILLE SHOWS IN THE PRIVILEGE LICENSE TAX LAWS, TO CLARIFY THE TAX STATUS OF SUCH SHOWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-36.1(a) is amended by deleting the words “or places where vaudeville exhibitions or performances are given”.

Sec. 2. G.S. 105-37(a) is amended by deleting the words “or place where vaudeville exhibitions or performances are given or operating a theatre or opera house where public exhibitions or performances are given”.

Sec. 3. The catchline to G.S. 105-37 is amended by deleting the words “or vaudeville shows”.

Sec. 4. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 25th day of February, 1981.

H. B. 45  CHAPTER 46
AN ACT TO ADOPT FOR NORTH CAROLINA INCOME TAX PURPOSES THE INSTALLMENT SALES REVISION ACT OF 1980, SO AS TO SIMPLIFY CAPITAL GAINS TAX TREATMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-142(f) is rewritten to read:

“(f) Installment Method.

(1) General Rule. Except as otherwise provided in this subsection, income from an installment sale shall be taken into account for purposes of this division under the installment method.

(2) Installment Sale Defined. For purposes of this subsection:

a. In General. The term ‘installment sale’ means a disposition of property where at least one payment is to be received after the close of the taxable year in which the disposition occurs.

b. Exceptions. The term ‘installment sale’ does not include:

1. Dealer Disposition of Personal Property. A disposition of personal property on the installment plan by a person who regularly sells or otherwise disposes of personal property on the installment plan.
2. Inventories of Personal Property. A disposition of personal property of a kind which is required to be included in the inventory of the taxpayer if on hand at the close of the taxable year.

(3) Installment Method Defined. For purposes of this subsection, the term ‘installment method’ means a method under which the income recognized for any taxable year from a disposition is that proportion of the payments received in that year which the gross profit (realized or to be realized when payment is completed) bears to the total contract price.

(4) Election Out.
   a. In General. Subdivision (1) shall not apply to any disposition if the taxpayer elects to have subdivision (1) not apply to such disposition.
   b. Time and Manner for Making Election. Except as otherwise provided by the Secretary of Revenue, an election under paragraph ‘a’ with respect to a disposition may be made only on or before the due date prescribed by law (including extension) for filing the taxpayer’s return of the tax imposed by this division for the taxable year in which the disposition occurs. Such an election shall be made in the manner prescribed by the Secretary.
   c. Election Revocable Only with Consent. An election under paragraph ‘a’ with respect to any disposition may be revoked only with the consent of the Secretary.

(5) Definitions and Special Rules. For purposes of this subsection:
   a. Marketable Securities. The term ‘marketable securities’ means any security for which, as of the date of the disposition, there was a market on an established securities market or otherwise.
   b. Payment. Except as provided in paragraph ‘c’ the term ‘payment’ does not include the receipt of evidences of indebtedness of the person acquiring the property (whether or not payment of such indebtedness is guaranteed by another person).
   c. Purchaser Evidences of Indebtedness Payable on Demand or Readily Tradable. Receipt of a bond or other evidence of indebtedness which
      1. is payable on demand, or
      2. is issued by a corporation or a government or political subdivision thereof and is readily tradable, shall be treated as receipt of payment.
   d. Readily Tradable Defined. For purposes of paragraph ‘c’, the term ‘readily tradable’ means a bond or other evidence of indebtedness which is issued
      1. with interest coupons attached or in registered form (other than one in registered form which the taxpayer establishes will not be readily tradable in an established securities market), or
      2. in any other form designed to render such bond or other evidence of indebtedness readily tradable in an established securities market.
   e. Like-Kind Exchanges. In the case of any exchange described in G.S. 105-145(a):
      1. the total contract price shall be reduced to take into account the amount of any property permitted to be received in such exchange without recognition of gain,
      2. the gross profit from such exchange shall be reduced to take into account any amount not recognized by reason of G.S. 105-145(a), and
3. the term 'payment' shall not include any property permitted to be received in such exchange without recognition of gain.

(6) Use of Installment Method by Shareholders in Section 337 of the Internal Revenue Code Liquidations:

a. Receipt of Obligations Not Treated as Receipt of Payment:

1. In General. If, in connection with a liquidation to which Section 337 of the Internal Revenue Code applies, in a transaction to which Section 331 of the Internal Revenue Code applies the shareholder receives (in exchange for the shareholder's stock) an installment obligation acquired in respect of a sale or exchange by the corporation during the 12-month period set forth in Section 337(a) of the Internal Revenue Code, then, for purposes of this subsection, the receipt of payments under such obligation (but not the receipt of such obligation) by the shareholder shall be treated as the receipt of payment for the stock.

2. Obligations Attributable to Sale of Inventory Must Result From Bulk Sale. Subparagraph 1, shall not apply to an installment obligation described in Section 337(b)(1)(B) of the Internal Revenue Code unless such obligation is also described in Section 337(b)(2)(B) of the Internal Revenue Code.

3. Sales by Liquidating Subsidiary. For purposes of subparagraph 1, in any case to which Section 337(c)(3) of the Internal Revenue Code applies, an obligation acquired in respect of a sale or exchange by the selling corporation shall be treated as so acquired by the corporation distributing the obligation to the shareholder.

b. Distributions Received in More Than One Taxable Year of Shareholder. If:

1. paragraph 'a' applies with respect to any installment obligation received by a shareholder from a corporation and

2. by reason of the liquidation such shareholder receives property in more than one taxable year,

then, on completion of the liquidation, basis previously allocated to property so received shall be reallocated for all such taxable years so that the shareholder's basis in the stock of the corporation is properly allocated among all property received by such shareholder in such liquidation.

(7) Rules:

a. In General. The Secretary shall prescribe such rules as may be necessary or appropriate to carry out the provisions of this section.

b. Selling Price Not Readily Ascertainable. The rules prescribed under paragraph a, shall include rules providing for ratable basis recovery in transactions where the gross profit or the total contract price (or both) cannot be readily ascertained.

(8) Installment Method for Dealers in Personal Property.

a. General Rule.

1. In General. Under rules prescribed by the Secretary, a person who regularly sells or otherwise disposes of personal property on the installment plan may return as income therefrom in any taxable year that proportion of the installment payments actually received in that year which the gross profit, realized or to be realized when payment is completed, bears to the total contract price.
2. Total Contract Price. For purposes of paragraph 1., the total contract price of all sales of personal property on the installment plan includes such sales and is added on the books of account of the seller to the established cash selling price of such property. This paragraph shall not apply with respect to sales of personal property under a revolving credit type plan.

b. Carrying Charges Not Included in Total Contract Price. If the carrying charges or interest with respect to sales of personal property, the income from which is returned under subdivision a.l., is not included in the total contract price, payments received with respect to such sales shall be treated as applying first against such carrying charges or interest.

(9) Gain or Loss on Disposition of Installment Obligation.

a. General Rule. If an installment obligation is satisfied at other than its face value or distributed, transmitted, sold, or otherwise disposed of, gain or loss shall result to the extent of the difference between the basis of the obligation and
1. the amount realized, in the case of satisfaction at other than face value or a sale or exchange, or
2. the fair market value of the obligation at the time of distribution, transmission, or disposition, in the case of the distribution, transmission, or disposition otherwise than by sale or exchange. Any gain or loss so resulting shall be considered as resulting from the sale or exchange of the property in respect of which the installment obligation was received.

b. Basis of Obligation. The basis of an installment obligation shall be the excess of the face value of the obligation over an amount equal to the income which would be returnable were the obligation satisfied in full.

c. Special Rule for Transmission at Death. Except as provided in G.S. 105-142.1 (relating to recipients of income in respect of decedents), this subsection shall not apply to the transmission of installment obligations at death.

(10) Obligation Becomes Unenforceable. For purposes of this subsection, if any installment obligation is canceled or otherwise becomes unenforceable the obligation shall be treated as if it were disposed of in a transaction other than a sale or exchange."

Sec. 2. G.S. 105-144(b) is amended by adding the following new language at the end:

"Provided also, that if an individual receives an installment obligation in liquidation under the provisions of Section 337 of the Internal Revenue Code, the gain realized shall be reported in accordance with G.S. 105-142(f)."

Sec. 3. G.S. 105-142.1 is amended by adding a new subsection to read:

"(f) Other Rules Relating to Installment Obligations.

(1) In General. In the case of an installment obligation reportable by the decedent on the installment method under G.S. 105-142, for purposes of subsection (b) of this section;

a. the second sentence of subsection (b) of this section shall be applied by inserting '(other than the obligor)' after 'or a transfer to a person',

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b. any cancellation of such an obligation shall be treated as a transfer, and

c. any cancellation of such an obligation occurring at the death of the decedent shall be treated as a transfer by the estate of the decedent (or, if held by a person other than the decedent before the death of the decedent, by such person).

(2) Cancellation Includes Becoming Unenforceable. For purposes of paragraph (1) of this subsection, an installment obligation which becomes unenforceable shall be treated as if it were cancelled."

Sec. 4. This act shall become effective for dispositions made after October 19, 1980, for taxable years ending after October 19, 1980, except:

(1) G.S. 105-142(f)(6) shall apply in the case of distributions of installment obligations after March 31, 1980;

(2) G.S. 105-142(f)(8) shall apply to taxable years ending after October 19, 1980;

(3) G.S. 105-142(f)(10) shall apply to installment obligations becoming unenforceable after October 19, 1980;

(4) Section 3 of this act shall apply in the case of decedents dying after October 19, 1980;

(5) In the case of any disposition made on or before October 19, 1980, in any taxable year ending after that date, the provisions of G.S. 105-142(f)(2) as they existed before October 19, 1980, shall be applied with respect to such disposition without regard to the first proviso of that subdivision and without regard to any requirement that more than one payment be received.

In the General Assembly read three times and ratified, this the 25th day of February, 1981.

H. B. 65   CHAPTER 47

AN ACT TO PROVIDE THAT THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE LIEUTENANT GOVERNOR, THE PRESIDENT OF THE SENATE, MAY DESIGNATE A PERSON TO SERVE FOR HIM ON CERTAIN BOARDS AND COMMISSIONS.

The General Assembly of North Carolina enacts:

Section 1. N.C. Land Policy Council. G.S. 113A-153(b)(1)c. is amended by adding immediately after the words "Speaker of the House of Representatives" the words "(or a person designated by the Speaker),". G.S. 113A-153(b)(1)b. is amended by adding immediately after the words "Lieutenant Governor" the first time they appear the words "(or a person designated by the Lieutenant Governor),".

Sec. 2. Committee on Inaugural Ceremonies. The last sentence of G.S. 143B-533 is amended by adding immediately after the words "Speaker of the House" the words "(or a person designated by the Speaker)", and is further amended in the last sentence by adding immediately after the words "President of the Senate" the words "(or a person designated by the President of the Senate)".

Sec. 3. N.C. Capital Planning Commission. The first sentence of the first paragraph of G.S. 143B-374 is amended by adding immediately after the word "Speaker" the words "(or a person designated by the Speaker)", and is further amended in the first sentence of the first paragraph by adding immediately
after the words "Lieutenant Governor", the words "(or a person designated by the Lieutenant Governor)".

Sec. 4. N.C. Council on Interstate Cooperation. G.S. 143B-380(2) is amended by adding immediately after the words "Speaker of the House of Representatives", the words "(or a person designated by the Speaker)". G.S. 143B-380(1) is amended by adding immediately after the words "President of the Senate" the words "(or a person designated by the President of the Senate)".

Sec. 5. N.C. State Commission on Indian Affairs. G.S. 143B-407(a) is amended by adding immediately after the words "Speaker of the House of Representatives", the words "(or a person designated by the Speaker)", and is further amended by adding immediately after the words "Lieutenant Governor", the words "(or a person designated by the Lieutenant Governor)".

Sec. 6. Economic Development Board. G.S. 143B-434(a) is amended in the second paragraph by inserting immediately after the words "Speaker of the House of Representatives" the words "(or a person designated by the Speaker)", and is further amended in the second paragraph by adding immediately after the words "Lieutenant Governor", the words "(or a person designated by the Lieutenant Governor)".

Sec. 7. When the Speaker, President of the Senate, or Lieutenant Governor has designated a person to serve in his place as permitted by this act, that person shall be compensated in accordance with G.S. 120-3.1 if a member of the General Assembly, in accordance with G.S. 138-6 if a State officer or employee, and in accordance with G.S. 138-5 in any other case, except that a member of the General Assembly so designated may not receive per diem if the Speaker, President of the Senate, or Lieutenant Governor may not receive per diem.

Sec. 8. State Board of Community Colleges. G.S. 115D-2.1(b)(2), as found in the 1980 Interim Supplement, is amended by adding immediately after the words "Lieutenant Governor", the words "(or a person designated by the Lieutenant Governor)".

Sec. 9. This act is effective upon ratification. In the General Assembly read three times and ratified, this the 25th day of February, 1981.

H. B. 41  CHAPTER 48
AN ACT TO EXTEND HANDICAPPED PARKING PRIVILEGES TO VEHICLES DISPLAYING OUT-OF-STATE LICENSE PLATES, PLACARDS OR OTHER EVIDENCE OF HANDICAP ISSUED BY THE APPROPRIATE AUTHORITY OF THE APPROPRIATE JURISDICTION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 20 of the General Statutes is amended by adding a new section as follows:

"§ 20-37.6A. Vehicles designated for out-of-state handicapped; parking privileges.—Any vehicle displaying an out-of-state handicapped license plate, placard or other evidence of handicap or visual impairment issued by the appropriate authority of the appropriate jurisdiction may park in any space reserved for the handicapped or the visually impaired pursuant to G.S. 20-37.6."

Sec. 2. This act is effective upon ratification.
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In the General Assembly read three times and ratified, this the 26th day of February, 1981.

S. B. 78  

CHAPTER 49

AN ACT TO EXTEND THE MENTAL HEALTH STUDY COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. The Mental Health Study Commission, established and structured by 1973 General Assembly Resolution 80; Chapter 185, 1975 Session Laws; Chapter 184, 1977 Session Laws; Chapter 285, 1979 Session Laws; 1979 General Assembly Resolution 20, is revived and authorized to continue in existence until July 1, 1983.

Sec. 2. The continued Mental Health Study Commission shall have all the powers and duties of the original Study Commission as they are necessary to continue the original study, to assist in the implementation of the original and succeeding Study Commission recommendations and to plan further activity on the subject of the study.

Sec. 3. Members of the present Mental Health Study Commission shall remain members of the continued Study Commission, but they shall serve at the pleasure of the person holding the office authorized to make the original appointment. Members of the General Assembly who are not reelected shall not be disqualified from membership on the continued Study Commission because they are no longer members of the General Assembly but the person holding the office authorized to make the original appointment may replace them with new appointees.

Sec. 4. Members and staff of the continued Mental Health Study Commission shall receive compensation and expenses as under the original authorization in the 1973 General Assembly Resolution 80 and the Department of Human Resources is authorized to reallocate fiscal resources under Budget Code (14460-8211) to be the funding source for the Mental Health Study Commission.

Sec. 5. This act shall become effective on July 1, 1981.

In the General Assembly read three times and ratified, this the 26th day of February, 1981.

S. B. 81  

CHAPTER 50

AN ACT TO ABOLISH THE BOARD OF DIRECTORS OF THE NORTH CAROLINA ORTHOPEDIC HOSPITAL AND THE YOUTH SERVICES ADVISORY COMMITTEE.

Whereas, the North Carolina Orthopedic Hospital ceased to operate on July 1, 1979; and

Whereas, the Board of Directors of the North Carolina Orthopedic Hospital has terminated all of the financial and administrative obligations of the institution; and

Whereas, the terms of the members of the Youth Services Advisory Committee expired in July, 1979; and

Whereas, the Youth Services Advisory Committee has not met since July 1, 1979, and the Juvenile Justice Planning Committee of the Governor's Crime Commission fulfills the necessary advisory function; Now, therefore,
The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-173(a)(2) is repealed.

Sec. 2. G.S. 143B-174, as it appears in the 1980 Interim Supplement, is amended by deleting the second sentence and by deleting in the seventh sentence in lines 17-20 the phrase, "the Board of Directors of the North Carolina Orthopedic Hospital, two of whose appointments expire April 4, 1973, four of whose appointments expire April 4, 1975, and three of whose appointments expire April 4, 1977;".

Sec. 3. Article 1 of Chapter 131 of the General Statutes is repealed.

Sec. 4. The Board of Directors of the North Carolina Orthopedic Hospital of the Department of Human Resources is hereby abolished.

Sec. 5. G.S. 7A-289.14(3) is hereby amended by placing a period after the words "interdepartmental coordination" and by deleting the remainder of the subdivision.

Sec. 6. G.S. 134A-8(5) is amended by deleting the words "with the advice of the Youth Services Advisory Committee".

Sec. 7. Part 21 of Article 3 of Chapter 143B of the General Statutes is repealed.

Sec. 8. The Youth Services Advisory Committee of the Department of Human Resources is hereby abolished.

Sec. 9. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of February, 1981.

S. B. 93

CHAPTER 51

AN ACT TO CONSOLIDATE VARIOUS RULEMAKING AND ADVISORY GROUPS UNDER THE NORTH CAROLINA DIVISION OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES.

Whereas, the Appropriations Base Budget Committee on Human Resources and Corrections of the 1979 General Assembly requested that the Mental Health Study Commission study the various commissions, councils, and boards which work with the Division of Mental Health, Mental Retardation and Substance Abuse Services; and

Whereas, the Mental Health Study Commission was asked to work toward the goal of collapsing and combining some of the groups to reduce costs and improve their functioning; and

Whereas, the Mental Health Study Commission has determined that four advisory groups—The North Carolina Commission for Mental Health and Mental Retardation Services, the North Carolina Drug Commission, the Mental Health Advisory Council and the Alcoholism Advisory Council—can be combined into a single commission; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Part 4 of Article 3 of Chapter 143B of the General Statutes is rewritten to read:

"Part 4.

"Commission for Mental Health, Mental Retardation and
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Substance Abuse Services.

"§ 143B-147. Commission for Mental Health, Mental Retardation and Substance Abuse Services; creation, powers, and duties.—(a) There is hereby created the Commission for Mental Health, Mental Retardation and Substance Abuse Services of the Department of Human Resources with the power and duty to adopt, amend and repeal rules and regulations to be followed in the conduct of State and local mental health, mental retardation, alcohol and drug abuse programs including education, prevention, intervention, treatment, rehabilitation and other related services. Such rules and regulations shall be designed to promote the amelioration or elimination of the mental health, mental retardation, or alcohol and drug abuse problems of the citizens of this State. The Commission for Mental Health, Mental Retardation and Substance Abuse Services shall have the authority:

(1) To establish standards and promulgate rules and regulations regarding the
   a. admission, treatment and professional care of persons admitted to any
      institution, center or hospital administered by the Department of
      Human Resources as provided in Chapter 122 of the General Statutes
      for the mentally ill, mentally retarded, alcohol or drug abusers,
      which is now or may hereafter be established;
   b. operation of education, prevention, intervention, treatment,
      rehabilitation and other related services as provided by area mental
      health, mental retardation and substance abuse authorities under
      Article 2F of Chapter 122 of the General Statutes;
   c. hearings and appeals of area mental health, mental retardation and
      substance abuse authorities as provided for in Article 2F of Chapter
      122 of the General Statutes;
   d. requirements of the federal government for grants-in-aid for mental
      health, mental retardation, alcohol or drug abuse programs which
      may be made available to local programs or the State. This section is
      to be liberally construed in order that the State and its citizens may
      benefit from such grants-in-aid;

(2) To adopt rules and regulations for the inspection, registration or
    licensing of
   a. facilities wherein mental health, mental retardation, alcohol or drug
      abuse services are provided under Article 2F of Chapter 122 of the
      General Statutes;
   b. private hospitals for the mentally disordered as provided by G.S.
      122-72;

(3) To advise the Secretary of the Department of Human Resources
    regarding the need for, provision and coordination of education,
    prevention, intervention, treatment, rehabilitation and other related
    services in the areas of:
    a. mental illness and mental health,
    b. mental retardation,
    c. alcohol abuse, and
    d. drug abuse;

(4) To review and advise the Secretary of the Department of Human
    Resources regarding all State plans required by federal or State law and
    to recommend to the Secretary any changes it thinks necessary in those
plans; provided, however, for the purposes of meeting State plan requirements under federal or State law, the Department of Human Resources is designated as the single State agency responsible for administration of plans involving mental health, mental retardation, alcohol abuse, and drug abuse services;

(5) To establish standards and adopt rules and regulations relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances as provided by G.S. 90-100, after consultation regarding these standards with a licensed physician named by the Chairman of the Commission for Mental Health, Mental Retardation and Substance Abuse Services.

(b) All rules and regulations hereby adopted shall be consistent with the laws of this State and not inconsistent with the management responsibilities of the Secretary of Human Resources provided by this Chapter and the Executive Organization Act of 1973.

(c) All rules and regulations pertaining to the delivery of services and licensing of facilities heretofore adopted by the Commission for Mental Health and Mental Retardation Services and controlled substances rules and regulations adopted by the North Carolina Drug Commission shall remain in full force and effect unless and until repealed or superseded by action of the Commission for Mental Health, Mental Retardation and Substance Abuse Services.

(d) All rules and regulations adopted by the Commission for Mental Health, Mental Retardation and Substance Abuse Services shall be enforced by the Department of Human Resources.

"§ 143B-148. Commission for Mental Health, Mental Retardation and Substance Abuse Services; members; selection; quorum; compensation.—(a) The Commission for Mental Health, Mental Retardation and Substance Abuse Services of the Department of Human Resources shall consist of 25 members:

(1) Four of whom shall be members of the General Assembly, with concern for the problems of mental illness, mental retardation, alcohol and drug abuse, including

a. two members of the House of Representatives appointed by the Speaker of the House, and

b. two members of the Senate appointed by the President of the Senate. The terms of office of these members shall be for two years, commencing with July 1 of each odd-numbered year;

(2) Twenty-one of whom shall be citizens appointed by the Governor and shall represent all geographic regions of the State.

a. Of these 21 members, three shall have a special interest in mental health, three shall have a special interest in mental retardation, three shall have a special interest in alcohol abuse and alcoholism and three shall have a special interest in drug abuse. Each group of three shall be made up of one member who is a consumer representative; one other who is a representative of a local or State citizen organization or association; and one other who is a professional in the field.

b. The remaining nine members shall be appointed from the general public, other citizen groups, area mental health, mental retardation, and substance abuse authorities, or from other related agencies.
c. Of these 21 appointments, at least one shall be a licensed physician and at least one other shall be a licensed attorney.

d. The Governor shall appoint members to the Commission in accordance with the foregoing provisions. At the initial formation of the Commission for Mental Health, Mental Retardation and Substance Abuse Services, the Governor shall designate seven of his appointees to serve for two years, seven to serve for three years and seven to serve for four years, all to commence on July 1, 1981. Thereafter the terms of all Commission members appointed by the Governor shall be four years. All Commission members shall serve their designated terms and until their successors are duly appointed and qualified. All Commission members may succeed themselves.

(3) All appointments shall be made pursuant to current federal rules and regulations, when not inconsistent with State law, which prescribe the selection process and demographic characteristics as a necessary condition to the receipt of federal aid.

(b) Except as otherwise provided in this section, the provisions of G.S. 143B-13 through 20 relating to appointment, qualifications, terms and removal of members shall apply to all members of the Commission for Mental Health, Mental Retardation and Substance Abuse Services. G.S. 143B-13(c) shall not apply to Commission members who are also members of the General Assembly.

c. Commission members who are members of the General Assembly shall receive subsistence and travel allowances at the rates set forth in G.S. 138-5; provided however, Commission members who are State employees shall receive travel allowances at the rates set forth in G.S. 138-6.

d. A majority of the Commission shall constitute a quorum for the transaction of business.

e. All clerical and other services required by the Commission shall be supplied by the Secretary of Human Resources.

“§ 143B-149. Commission for Mental Health, Mental Retardation and Substance Abuse Services; officers.—The Commission for Mental Health, Mental Retardation and Substance Abuse Services shall have a chairman and a vice-chairman. The chairman shall be designated by the Governor from among the members and shall serve as chairman at his pleasure. The vice-chairman shall be elected by and from the members of the Commission and shall serve for a term of two years or until the expiration of his regularly appointed term.

“§ 143B-150. Commission for Mental Health, Mental Retardation and Substance Abuse Services; regular and special meetings.—The Commission for Mental Health, Mental Retardation and Substance Abuse Services shall meet at least once in each quarter and may hold special meetings at any time and place within the State at the call of the chairman or upon the written request of at least eight members.”

Sec. 2. Chapter 122 of the General Statutes is amended by adding a new section to the beginning of the Chapter to read:

“§ 122.1. Definitions.—For the purposes of this Chapter, the following definition applies:

(1) ‘Commission’ means the Commission for Mental Health, Mental Retardation and Substance Abuse Services, established under Part 4 of Article 3 of Chapter 143B of the General Statutes.”

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Sec. 4. G.S. 122-35.36(5) is repealed.

Sec. 5. G.S. 20-179.2 is amended by deleting the phrase “Commission for Mental Health and Mental Retardation Services” wherever it appears and by substituting the following: “Commission for Mental Health, Mental Retardation and Substance Abuse Services”.

Sec. 6. G.S. 148-19(d) is amended by deleting the phrase “Commission for Mental Health and Mental Retardation Services” wherever it appears and by substituting the following: “Commission for Mental Health, Mental Retardation and Substance Abuse Services”.

Sec. 7. Chapter 143B of the General Statutes is amended by repealing Part 23 of Article 3.

Sec. 8. G.S. 90-87 is amended by inserting a new subdivision “(3a)” between subdivisions “(3)” and “(4)” to read:

“(3a) ‘Commission’ means the Commission for Mental Health, Mental Retardation and Substance Abuse Services established under Part 4 of Article 3 of Chapter 143B of the General Statutes.”


Sec. 10. G.S. 90-113.9 is amended by adding a new subdivision “(2)” to read:

“(2) ‘Commission’ means the Commission for Mental Health, Mental Retardation and Substance Abuse Services, established under Part 4 of Article 3 of Chapter 143B of the General Statutes.”

Sec. 11. G.S. 90-113.14(c) is amended by deleting the phrase “North Carolina Drug Authority” wherever it appears and by substituting the following: “Commission”.

Sec. 12. G.S. 143-475.1 is amended by deleting the phrase “North Carolina Drug Authority” wherever it appears and by substituting the following: “Commission for Mental Health, Mental Retardation and Substance Abuse Services”.

Sec. 13. Chapter 143B of the General Statutes is amended by repealing Part 15 of Article 3.

Sec. 14. Except as otherwise provided in this act, the General Statutes are amended by deleting the phrase “Commission for Mental Health and Mental Retardation Services” wherever it appears and by substituting the following: “Commission for Mental Health, Mental Retardation and Substance Abuse Services”.

Sec. 15. Except as otherwise provided in this act, the General Statutes are amended by deleting the phrase “North Carolina Drug Commission”
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wherever it appears and by substituting the following: "Commission for Mental Health, Mental Retardation and Substance Abuse Services".

Sec. 16. The General Statutes are amended by deleting the phrase "Mental Health Advisory Council" wherever it appears and by substituting the following: "Commission for Mental Health, Mental Retardation and Substance Abuse Services".

Sec. 17. This act shall become effective July 1, 1981.
In the General Assembly read three times and ratified, this the 26th day of February, 1981.

S. B. 98  CHAPTER 52
AN ACT TO AMEND ARTICLE 2F OF CHAPTER 122 OF THE GENERAL STATUTES TO PROVIDE FOR THE REPRESENTATION OF BOTH ALCOHOL AND DRUG ABUSE INTERESTS ON AREA MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE BOARDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122-35.40(b)(4) is rewritten to read:
"(4) At least one person each representing the interests of or from citizens’ organizations representing the interests of persons with:

a. mental illness
b. mental retardation
c. alcoholism, and
d. drug abuse;"

Sec. 2. This act shall become effective on July 1, 1981.
In the General Assembly read three times and ratified, this the 26th day of February, 1981.

S. B. 107  CHAPTER 53
AN ACT TO ALLOW NOTICE OF PUBLIC HEARING ON CREATION, EXTENSION OR CONSOLIDATION OF A COUNTY OR MUNICIPAL SERVICE DISTRICT TO BE GIVEN BY ANY CLASS OF U. S. MAIL.

The General Assembly of North Carolina enacts:

Section 1. The fourth sentences of G.S. 153A-302(c) and G.S. 160A-537(c) are both amended by deleting the words "by first-class mail", and by inserting immediately after the words “date of the hearing” in the same sentence the words "by any class of U.S. mail which is fully prepaid”.

Sec. 2. G.S. 153A-303(e), G.S. 153A-304(c), G.S. 160A-538(d), and G.S. 160A-539(c) are each amended by adding immediately before the last sentence the following new sentence:
"The notice may be mailed by any class of U.S. mail which is fully prepaid."

Sec. 3. This act is effective with respect to all notices mailed after ratification of this act.
In the General Assembly read three times and ratified, this the 26th day of February, 1981.
CHAPTER 54

AN ACT TO REQUIRE THAT APPLICATION NEED ONLY BE MADE ONCE FOR THE HOMESTEAD EXEMPTION FOR THE ELDERLY AND DISABLED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-277.1(c)(1) and G.S. 105-277.1 (c)(2) are amended by deleting in each place the words "on the abstract on which they list their property for taxation", and inserting in lieu thereof in each place the words "on a form made available by the tax supervisor under G.S. 105-282.1".

Sec. 2. G.S. 105-282.1(a)(3) is amended by deleting the number "105-278.3", and inserting in lieu thereof the numbers "105-277.1, 105-278.3".

Sec. 3. G.S. 105-282.1(a)(3)b is amended by adding immediately after the word "property" the words "or the qualifications or eligibility of the taxpayer".

Sec. 4. G.S. 105-309(f) is rewritten to read:

"(f) The following information shall appear on each abstract, or on an information sheet distributed with the abstract. (The abstract or sheet must include the address and telephone number of the tax supervisor below the notice required by this subsection):

PROPERTY TAX RELIEF FOR ELDERLY AND PERMANENTLY DISABLED PERSONS.

North Carolina excludes from property taxes the first seven thousand five hundred dollars ($7,500) in assessed value of certain property owned by North Carolina residents aged 65 or older or totally and permanently disabled whose disposable income does not exceed nine thousand dollars ($9,000). The exclusion covers real property (or a mobile home) occupied by the owner as his or her permanent residence and/or household personal property used by the owner in connection with his or her permanent residence. Disposable income includes all moneys received other than gifts or inheritances received from a spouse, lineal ancestors, or lineal descendants.

If you received this exclusion in (tax supervisor insert previous year), you do not need to apply again unless you have changed your permanent residence. If you received the exclusion in (tax supervisor insert previous year) and your disposable income in (tax supervisor insert previous year) was above nine thousand dollars ($9,000), you must notify the tax supervisor. If you received the exclusion in (tax supervisor insert previous year) because you were totally and permanently disabled and you are no longer totally and permanently disabled, you must notify the tax supervisor. If the person receiving the exemption in (tax supervisor insert previous year) has died, the person required by law to list the property must notify the tax supervisor. Failure to make any of the notices required by this paragraph before April 15 will result in penalties and interest.

If you did not receive the exclusion in (tax supervisor insert previous year) but are now eligible, you may obtain a copy of an application from the tax supervisor. It must be filed by April 15.'"

Sec. 5. Any person who fails to give the notice required by G.S. 105-309(f) shall not only be subject to loss of the exemption, but also to the penalties provided by G.S. 105-312, and also if willful to the penalty provided in G.S. 105-310.
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Sec. 6. For the purpose of determining whether a penalty is levied, whenever a taxpayer has received an exemption under G.S. 105-277.1 for one taxable year but the property or taxpayer is not eligible for the exemption the next year, notice given of that fact to the tax supervisor on or before April 15 shall be considered as timely filed.

Sec. 7. The 1981 application by any taxpayer under G.S. 105-309(f) for the exemption provided by G.S. 105-277.1 shall be considered the application required by G.S. 105-282.1(a)(3).

Sec. 8. This act shall become effective January 1, 1982.

In the General Assembly read three times and ratified, this the 27th day of February, 1981.

H. B. 43

CHAPTER 55

AN ACT TO AMEND CHAPTER VII OF THE CHARTER OF THE CITY OF CHARLOTTE RELATING TO UPTOWN DEVELOPMENT PROJECTS.

The General Assembly of North Carolina enacts:

Section 1. Chapter VII, Subchapter B of the Charter of the City of Charlotte, being Chapter 713, Session Laws of 1965 is amended by adding a new Article III to read:

“ARTICLE III.

“Uptown Development Projects.

“Sec. 7.109. Uptown development projects. (a) Definition. In this Article, ‘uptown development projects’ means a capital project in the city’s central business district, as defined by the city council, comprising one or more buildings or other improvements and including both public and private facilities. By way of illustration but not limitation, such a project might include a single building comprising a publicly owned parking structure and publicly owned convention center and a privately owned hotel or office building.

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

(1) The property interest of both the city and the developer or developers in the project.

(2) The responsibilities of the city and the developer or developers for construction of the project.

(3) The responsibilities of the city and the developer or developers with respect to financing the project.

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

(c) Property acquisition. An uptown development project may be constructed on property acquired by the developer or developers or on property directly acquired by the city by purchase.

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

(c) Construction of the project. The contract between the city and the developer or developers may provide that the developer or developers shall be responsible for construction of the entire uptown development project. If so, the contract shall include such provisions as the city council deems sufficient to assure that the public facility or facilities included in the project meet the needs of the city and are constructed at a reasonable price. A project constructed pursuant to this paragraph is not subject to Article 8 of Chapter 143 of the General Statutes.

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

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

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of February, 1981.

H. B. 109

CHAPTER 56

AN ACT TO ESTABLISH THE TIME FOR FILING CORPORATE INCOME RETURNS FOR CERTAIN PARTIALLY EXEMPT CORPORATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-130.17 is amended by adding a new subsection, (d), to read:

“Organizations described in G.S. 105-130.11(a)(1), (3), (4), (5), (6), (7) and (8) that are required to file a return under G.S. 105-130.11(b) shall file a return made on the basis of a calendar year on or before the fifteenth day of May following the close of the calendar year and a return made on the basis of a fiscal year on or before the fifteenth day of the fifth month following the close of the fiscal year.”; and is further amended by relettering the succeeding subsections accordingly.

Sec. 2. This act is effective for taxable years beginning on or after January 1, 1981.

In the General Assembly read three times and ratified, this the 27th day of February, 1981.
H. B. 132

CHAPTER 57

AN ACT TO INCORPORATE THE VILLAGE OF CLEMMONS IN FORSYTH COUNTY, SUBJECT TO REFERENDUM.

The General Assembly of North Carolina enacts:

Section 1. (a) The Forsyth County Board of Elections shall conduct an election on Tuesday, May 12, 1981, for the purpose of submitting to the qualified voters of the area described in Section 2.1, of the Charter of the Village of Clemmons, the question of whether or not such area shall be incorporated as the Village of Clemmons. Registration for the special election shall be conducted in accordance with the provisions of Chapter 163 of the General Statutes, especially G.S. 163-288.2.

(b) In the special election, those voters who favor the incorporation of the Village of Clemmons as provided in this act shall vote a ballot upon which shall be printed the words: “FOR Incorporation of Clemmons”, and those voters who are opposed to the incorporation of the Village of Clemmons as provided in this act shall vote a ballot upon which shall be printed the words: “AGAINST Incorporation of Clemmons”.

Sec. 2. In such special election, if a majority of the votes cast shall be cast “AGAINST Incorporation of Clemmons”, then Section 3 through 6 of this act shall have no force and effect.

Sec. 3. In such special election, if a majority of the votes cast shall be cast “FOR Incorporation of Clemmons” then: (i) Sections 4, 5, and 6 of this act shall become effective on the date that the Forsyth County Board of Elections determines the result of the election, and (ii) John F. Hunter, Robert Gleason, Jane Wold, Sanford S. Stimpson, and Dennis Brewer are hereby appointed as the Village Council of the Village of Clemmons to serve until their successors are elected and qualify.

Sec. 4. The Village Council appointed pursuant to the preceding section shall possess and may exercise all the powers, except the power to levy ad valorem taxes on real and personal property, granted by the Charter and general laws of North Carolina to the Village of Clemmons. They shall select from among their members a chairman, to exercise the powers of Mayor until a Mayor is elected and qualifies as provided in Section 5 of the act. The chairman so selected shall vote as a member of the council, but shall not vote again when there is an equal division among the other members on a question. They shall serve until the organizational meeting following the 1981 municipal election.

Sec. 5. The Village Council may adopt a budget ordinance for the 1981-82 fiscal year, following their qualification for office, without having to comply with the budget preparation and adoption timetable set out in the Local Government Budget and Fiscal Control Act. The Village Council elected in the 1981 municipal election may, not later than January 1, 1982, adopt an ad valorem tax on real and personal property for the 1981-82 fiscal year, and taxes may be paid at par or face amount within 90 days of adoption of said tax, and thereafter in accordance with the schedule in G.S. 105-360 as if the taxes had been due on September 1, 1981.

Sec. 6. The following provisions of law shall constitute the Charter of the Village of Clemmons:

"CHARTER OF THE VILLAGE OF CLEMMONS.

"ARTICLE I."
"Incorporation and Corporate Powers.

"Section 1.1. Incorporation and general powers. The inhabitants of the area described in Section 2.1 of this Charter shall be and constitute a body politic and corporate under the name of the ‘Village of Clemmons’ and shall be vested with all property which may be acquired by the Village, and all rights herein delegated to it; shall have perpetual succession; may have a common seal and alter and renew the same at pleasure; may sue and be sued; may contract; may acquire and hold all such property, real and personal, as may be devised, bequeathed, sold or in any manner conveyed or dedicated to it, or otherwise acquired by it, and may from time to time hold or invest, sell, or dispose of the same.

The Village of Clemmons shall be vested with all municipal powers, functions, rights, privileges and immunities conferred by the Constitution and laws of the State of North Carolina upon municipalities and especially Chapter 160A of the General Statutes.

"Sec. 1.2. Exercise of powers. All powers, functions, rights, privileges, and immunities of the Village, its officers, agencies, or employees, shall be carried into execution as provided by this Charter, or, if this Charter makes no provision, as provided by ordinance or resolution of the Village Council and as provided by the general laws of North Carolina pertaining to municipal corporations.

"Sec. 1.3. Rate limitation on taxation. Notwithstanding the provisions of North Carolina General Statute 160A-209(d), and the rate limitation set out in 160A-209(d), the Village Council may levy property taxes only up to a combined rate of twenty cents (20¢) on the one hundred dollar ($100.00) appraised value of property subject to taxation, without an approving vote of the people as provided in G.S. 160A-209(e), G.S. 160A-209(f), or in Chapter 159 of the General Statutes. Any tax levy approved by the people shall not count for the purposes of rate limitation imposed herein.

"ARTICLE II.

"Corporate Boundaries.

"Sec. 2.1. Corporate boundaries. The corporate boundaries of the Village of Clemmons shall be as follows until changed in accordance with law:
BEGINNING at an iron in the eastern bank of the Yadkin River at its point of intersection with the southern right-of-way line of U. S. Highway No. 158, said iron being a horizontal control point established with reference to the North Carolina State Grid System having coordinates of N - 826,994.203 and E - 1,580,843.009, running thence with the southern right-of-way line of U. S. Highway No. 158 the seven (7) following courses and distances: North 53° 38' 20" East 308.73 feet to an iron; North 55° 19' 16" East 104.62 feet to an iron; thence on a curve to the right on a chord North 59° 17' 17" East 413.04 feet to an iron (said curve having a delta angle of 07° 55' 57"", a radius of 2,985.71 feet, a point of tangency of 207.1 feet, and length of arc of 413.37 feet); North 63° 15' 15" East 1,091.57 feet to an iron at or near the eastern edge of the eastern branch of the main entrance road to Tanglewood Park; North 63° 16' 15" East 1,139.05 feet to an iron; thence on a curve to the right on a chord North 71° 30' 49" East 288.30 feet to an iron (said curve having a delta angle of 16° 29' 08", a radius of 1,005.45 feet, a point of tangency of 145.65 feet, and a length of arc of 289.30 feet); and North 79° 45' 21" East 604.64 feet to an iron, said iron being the northwest corner of a 20 foot strip of land owned by the Heirs of Minnie L.
Craver (see Deed Book 235 at page 310, Forsyth County Registry); thence North 78° 08' 27" East, 20.03 feet to an iron; thence with the southern right of way of U. S. Highway No. 158 North 75° 06' 43" East 1,389.77 feet to an iron; thence on a curve to the right on a chord North 88° 19' 36" East 385.04 feet to an iron stake; thence with Daniel L. Crandell's west line South 01° 03' 51" East 1,458.61 feet to an iron, said iron being the southwest corner of the Daniel L. Crandell tract and also being in the northern line of the Minnie L. Craver Heirs property; thence with the Craver Heirs' property the four (4) following courses and distances: South 89° 08' 57" West 1,089.17 feet to an iron; thence North 04° 58' 49" West 436.48 feet to an iron; North 88° 01' 34" West 627.22 feet to a point in the line of Tanglewood Park (Book 1193, page 1576, Tract 1; thence South 01° 53' 49" East 447.4 feet to a concrete post in the northern line of Anna C. Cobb property as described in Deed Book 1018 at page 158, Forsyth County Registry; thence with Cobb's north line South 88° 47' 08" West 206.65 feet to a concrete post, Cobb's northwest corner; thence with Cobb's west line South 01° 21' 26" West 884.02 feet to an iron, said iron being Cobb's southwest corner and E. H. Craver's northwest corner (see Deed Book 951 at page 489, Forsyth County Registry); thence with Craver's west line South 01° 21' 09" West 884.99 feet to a concrete post; thence with Craver's south line North 88° 14' 06" East 297.13 feet to a concrete post, said post being the northwest corner of property owned by W. Bryan White and Associates Co-Op; thence with W. Bryan White and Associates Co-Op's West line South 15° 42' 44" East, 2,471.36 feet to a concrete post; thence continuing South 15° 42' 44" East, 15.0 feet to the center of a creek; thence with said creek the nine (9) following courses and distances: North 82° 42' 06" East, 468.62 feet to a point; North 65° 08' 40" East, 178.23 feet to a point; North 76° 25' 12" East, 149.75 feet to a point; South 71° 54' 38" East, 128.07 feet to a point; South 84° 14' 21" East, 38.86 feet to a point; North 86° 25' 52" East, 143.57 feet to a point; South 72° 34' 12" East, 32.52 feet to a point; North 48° 06' 23" East, 25.74 feet to a point, and North 66° 49' 44" East, 237.54 feet to a point; thence leaving said creek and continuing with W. Bryan White and Associates West line the three (3) following courses and distances: South 04° 41' 51" West, 570.72 feet to a concrete post; South 38° 58' 08" West, 540.88 feet to a concrete post; and South 31° 42' 39" East, 3,055.59 feet to an iron in the Northwestern right-of-way line of Idols Road (see Deeds in Book 1043, at Page 158, and Book 1107, at Page 1703, for reference to White's land); thence along the same line South 31° 42' 39" East to a point 1200 feet Southeast of the center line of the Southern Railway right-of-way; thence in an Easterly direction with a line 1200 feet southeast of and parallel to the center line of the Southern Railway right-of-way to a point 200 feet East of the center line of Hampton Road; thence in a Northerly direction with a line 200 feet East of and parallel to the center line of Hampton Road to a point in the center line of the Southern Railway right-of-way; thence along the center line of the Southern Railway right-of-way in an Easterly direction to a point 1600 feet East of Hampton Road; thence in a Northerly direction with a line 1600 feet East of and parallel to Hampton Road to a point 600 feet South of the center line of U. S. Highway 158; thence in an Easterly direction with a line 600 feet South of and parallel to the center line of U. S. Highway 158 to a point in the center of Muddy Creek; thence in a Northwesterly direction with the center of Muddy Creek as it meanders to a point approximately 560 feet North of the center line of Peace Haven Road, said point being the Northeast corner of Lot 5-B, Tax
Block 4233; thence along Lots 1 through 5 in the division of lands of Emoline Harper (Will Book 9, Page 285) the following courses and distances: North 66° 20' West, 326 feet to an iron; South 0° 30' West, 125 feet to an iron; North 89° 30' West, 543.6 feet to an iron; the Northwest corner of Lot 1; thence South 8° West, 600 feet to an iron; thence along Shugart Enterprises Southern line (Deed Book 1280, Page 292) in a Westerly direction approximately 2805 feet to an iron, the Southeast corner of Barron's Tract (Deed Book 1198, Page 122); thence along Barron's line, North 84° 58' West, 500 feet to an iron stake; thence with Barron's West line, North 4° 13' West, 780.8 feet to an iron; thence South 82° 30' West approximately 1157 feet to a point 200 feet West of the center line of Lewisville-Clemmons Road; thence with a line 200 feet West of and parallel to Lewisville-Clemmons Road in a Southerly direction approximately 437 feet to a point in the center line of State Road Number 1143, thence due West approximately 2400 feet to a point in the center of Blanket Bottom Creek; thence in a Southwesterly direction with the center of Blanket Bottom Creek as it meanders to a point in the center line of Harper Road; thence in a Southerly direction with the center line of Harper Road to the point of intersection with the Clemmonsville Township line; thence in a Westerly direction with the Clemmonsville Township line approximately 2100 feet to a point in the center of Blanket Bottom Creek; thence in a Southwesterly direction with the center of Blanket Bottom Creek as it meanders to a point 800 feet South of the center line of Peace Haven Road; thence in a Westerly direction with a line 800 feet South of and parallel to the center line of Peace Haven Road to a point 200 feet West of the center line of Lasater Road; thence in a Southerly direction with a line 200 feet West of and parallel to Lasater Road to a point in the North line of Lasater Downs (Plat Book 27, Page 51); thence along the line with Lasater Downs North 67° 33' 36" West, 169.12 feet to an iron stake in Lamberti's line; thence along a line with Lasater Downs and beyond South 51° 37' 47" East, approximately 2360 feet to the East bank of the Yadkin River; thence with the East bank of the Yadkin River approximately 8500 feet to an iron stake in the Southern right-of-way of U. S. Highway 158, the point and place of BEGINNING.

"ARTICLE III.

"Mayor and Village Council.

"Sec. 3.1. Mayor and Mayor Pro Tempore. The Mayor shall be elected by and from the qualified voters of the Village voting at large in the manner provided in Article IV. The Mayor shall be the official head of the Village government and shall preside at all meetings of the Village Council. When there is an equal division upon any question, or in the appointment of officers, by the Council, the Mayor shall determine the matter by his vote, and shall vote in no other case. The Mayor shall exercise such powers and perform such duties as are or may be conferred upon him by the general laws of North Carolina, by this Charter, and by the ordinances of the Village. The Village Council shall choose one of its number to act as Mayor Pro Tempore, and he shall perform the duties of the Mayor in the Mayor's absence or disability. The Mayor Pro Tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Council.

"Sec. 3.2. Composition of Village Council. Except for the initial Village Council appointed by Section 3 of this act, the Village Council shall consist of
four members who shall be elected by all of the voters of the Village voting at large in the manner provided in Article IV of this Charter.

"Sec. 3.3. Terms; qualifications; vacancies. (a) The Mayor shall be elected for a term of two years. The members of the Village Council, except as provided in Section 4.3 of this Charter, shall be elected for terms of four years.

(b) To be eligible to be elected as Mayor or as a member of the Village Council or to serve in any of those offices a person shall be a qualified voter and a resident of the Village.

(c) If any elected Mayor or Councilman shall refuse to qualify, or if there shall be any vacancy in the office of Mayor or Councilman after election and qualification, the remaining members of the Council shall by majority vote appoint some qualified person to serve for the unexpired term. Any Mayor or Councilman so appointed shall have the same authority and powers as if regularly elected.

(d) No person shall be eligible to be elected to Mayor or Councilman for more than two successive terms as provided above.

"Sec. 3.4. Organizational meeting. The organizational meeting of the Village Council shall be as provided in G.S. 160A-68.

"Sec. 3.5. Ordinances. The enacting clause of all ordinances shall be "Be it ordained by the Village Council of the Village of Clemmons".

"ARTICLE IV.

"Election Procedure.

"Sec. 4.1. Procedure. Elections shall be conducted in accordance with Subchapter IX of Chapter 163 of the General Statutes.

"Sec. 4.2. Results of elections. All elections in the Village of Clemmons shall be conducted under the nonpartisan plurality method and the results determined under G.S. 163-292.

"Sec. 4.3. Election of Mayor. In 1981 and biennially thereafter, a Mayor shall be elected for a term of two years. In the 1981 municipal election, four council members shall be elected. The two receiving the largest number of votes shall be elected for terms of four years, and the two receiving the next highest number of votes shall be elected for terms of two years. In 1983 and biennially thereafter, two council members shall be elected for terms of four years.

"ARTICLE V.

"Village Attorney.

"Sec. 5.1. Appointment; qualifications; term; compensation. The Village Council shall appoint a Village Attorney who shall be an attorney at law licensed to engage in the practice of law in North Carolina and who need not be a resident of the Village during his tenure. The Village Attorney shall serve at the pleasure of the Village Council and shall receive such compensation as the Council shall determine.

"Sec. 5.2. Duties of Village Attorney. It shall be the duty of the Village Attorney to prosecute and defend suits for and against the Village; to advise the Mayor, Village Council, and other Village officials with respect to the affairs of the Village to draw all legal documents relating to the affairs of the Village; to draw proposed ordinances when requested to do so; to inspect and pass upon all agreements, contracts, franchises and other instruments with which the Village may be concerned; to attend meetings of the Village Council as required by the Council, and to perform such other duties as may be required of him by virtue of his position as Village Attorney.
"ARTICLE VI.
"Form of Government.
"Sec. 6.1 Council-Manager form of government. The Village of Clemmons shall be governed by the Council-Manager form of government, as provided in Part 2 of Article 7 of Chapter 160A of the General Statutes.

"ARTICLE VII.
"Recall of Elected Officials.
"Sec. 7.1. Removal of office holders. Absence from five consecutive regular meetings shall operate to vacate the seat of a Council member, unless the absence is excused by the Council by resolution setting forth the reason. Such resolution shall be entered upon the minutes.
"Sec. 7.2. The Mayor or any member of the Village Council may also be removed from office in the following manner:
(1) Any elector of the Village may make and file with the Village Clerk an affidavit containing the name of the Village officer whose removal is sought and a statement of the grounds alleged for his removal. The Clerk shall thereupon deliver to the elector making such affidavit copies of petition blanks for demanding such a removal, printed forms of which he shall keep on hand. Such blanks shall be issued by the Clerk with his signature thereto attached and shall be dated and addressed to the Council, indicate the person to whom issued, and state the name of the officer whose removal is sought. A copy of the petition shall be entered in a record book kept for that purpose in the office of the Clerk. A recall petition to be effective must be returned and filed with the Clerk within 30 days after the filing of the affidavit, and to be sufficient must bear the signature of at least twenty-five percent (25%) of the registered voters of the Village as shown by the registration records of the immediately preceding general municipal election. A recall petition, if insufficient as originally filed, may be amended as hereinafter provided.
(2) If a recall petition, or amended petition shall be certified by the Clerk to be sufficient he shall at once submit it to the Council with his certificate to that effect and shall notify the officer whose removal is sought of such action. If the officer whose removal is sought does not resign within 5 days after such notice, the Council shall thereupon order and fix a day for holding a recall election. Any such election shall be held not less than 60 nor more than 90 days after the petition has been certified to the Council, and it may be held at the same time as any other general or special election within such period; but if no other election is to be held within such period the Council shall call a special recall election to be held within the time aforesaid.
(3) The question of recalling any number of officers may be submitted at the same election, but as to each such officer a separate petition shall be filed and there shall be an entirely separate ballot.
(4) The ballots used in a recall election shall submit the following propositions in the order indicated:
☐ For the recall of (name of officer).
☐ Against the recall of (name of officer).
Except that the spaces left for the name and date shall be filed by the correct names and dates, the ballots used in a recall election shall be in form substantially as follows:
RECALL ELECTION VILLAGE OF CLEMMONS
____________________(Month and day of month)___________19______________
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For the recall of

(5) If a majority of the votes cast on the question of recalling an officer be against his recall he shall continue in office for the remainder of the unexpired term, but subject to the recall as before. If a majority of such votes be for the recall of the officer designated on the ballot, he shall, regardless of any defects in the recall petition, be deemed removed from office.

(6) If an officer in regard to whom a sufficient recall petition is submitted to the Council shall resign before the election, or be removed as a result thereof, the vacancy so caused shall be filled in the manner provided by this Charter for filling vacancies in such office, except as provided in Section 7.2(h). But an officer removed by the voters as the result of a recall election, or resigning after a sufficient petition for his recall has been submitted to the Council, shall not be reelected to fill the vacancy caused by his own removal or resignation.

(7) No recall petition shall be filed against an officer within three months after he takes office, nor, in case of an officer subjected to a recall election and not removed thereby, until at least six months after that election.

(8) If the recall of a majority of the members of the Village Council, including the Mayor as one of the members, shall be effected at a single recall election, the successors of the officers recalled shall be elected by the registered, qualified voters of the Village at a special municipal election, and said successors shall serve for the unexpired part of the terms of the officers recalled. The members of the Village Council who have not been recalled are empowered to call said special election and to make all necessary provisions regarding the same in conformity to the Constitution and general laws of North Carolina. If the recall of all of the members of the Village Council, including the Mayor, shall be effected at a single recall election, they shall be continued in office for the purpose, and only for the purpose, of calling a special municipal election for the election of their successors as above provided, and of ascertaining and declaring the result thereof.

"ARTICLE VIII.

"Zoning.

"Sec. 8.1. Zoning. Current zoning ordinance in effect in Forsyth County shall remain in full force and effect until such time as the Village Council of the Village of Clemmons enacts a zoning ordinance pursuant to law. The Forsyth County Board of Commissioners shall have full authority to administer and enforce the current ordinance or any amendment to said ordinance until such time that the Village Council of the Village of Clemmons shall enact a zoning ordinance pursuant to law.

"Sec. 8.2. No extraterritorial zoning, subdivision control, or building inspections. The Village of Clemmons may not exercise any power granted by Article 19 of Chapter 160A of the General Statutes, beyond the corporate limits of the Village.

"ARTICLE IX.

"Charter Amendments.

"Sec. 9.1. Any amendment to this Charter initiated locally, save and except those amendments permitted by G.S. 160A-101 through G.S. 160A-110, must be approved by a simple majority of the voters of the Village of Clemmons in a referendum, prior to submission to the North Carolina General Assembly for approval. Initiative petition and referendum procedure shall be governed by G.S. 160A-104 and G.S. 160A-105."
Sec. 7. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 27th day of February, 1981.

H. B. 133         CHAPTER 58
AN ACT TO PERMIT ONSLOW COUNTY TO CONSTRUCT TWO VEHICLE CROSSOVERS TO THE BEACH STRAND ON PRIVATE PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. Onslow County is authorized to construct two vehicle crossovers to the beach strand on private property. The county may use only nonproperty tax funds for this purpose.

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 27th day of February, 1981.

H. B. 139         CHAPTER 59
AN ACT TO AMEND CHAPTER 282 OF THE SESSION LAWS OF 1979 RELATING TO THE AUTHORITY OF THE BOARD OF COMMISSIONERS OF GUILFORD COUNTY TO DELEGATE TO THE GUILFORD COUNTY PLANNING BOARD THE AUTHORITY TO CLOSE PUBLIC ROADS OR EASEMENTS.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 282 of the 1979 Session Laws is amended by adding a new sentence at the end of the section, said section to read as follows:

"Sec. 3. For purposes of this act, references found in G.S. 153A-241 to the board of commissioners shall refer to the planning board except for purposes of appeal. References found in G.S. 153A-241 to the publishing of a resolution declaring its intent to close the public road or easement by advertising once a week for four successive weeks before the public hearing thereon shall be changed to provide that the resolution of intent need only be published once a week for two successive weeks."

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 27th day of February, 1981.

H. B. 140         CHAPTER 60
AN ACT TO AUTHORIZE THE BOARD OF COMMISSIONERS OF GUILFORD COUNTY TO APPOINT OR DESIGNATE A DEPUTY CLERK TO THE BOARD.

The General Assembly of North Carolina enacts:

Section 1. The Board of Commissioners of Guilford County is hereby authorized and empowered to appoint or designate a deputy clerk to the board of county commissioners.

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 27th day of February, 1981.
H. B. 184  

CHAPTER 61  
AN ACT TO AMEND THE CHARTER OF THE CITY OF CHARLOTTE TO DELETE THE RESIDENCY REQUIREMENT FOR DEPARTMENT HEADS.  
The General Assembly of North Carolina enacts:  
Section 1. Chapter V, Subchapter A, of the Charter of the City of Charlotte as found in Chapter 713, Session Laws of 1965, as amended by Chapter 97, Session Laws of 1971, is amended by deleting Section 5.01(c).  
Sec. 2. This act is effective upon ratification.  
In the General Assembly read three times and ratified, this the 27th day of February, 1981.

H. B. 203  

CHAPTER 62  
AN ACT TO PERMIT PROFESSIONAL BOXING IN THE CITY OF GREENSBORO.  
The General Assembly of North Carolina enacts:  
Section 1. Notwithstanding the provisions of G.S. 14-271, it shall be lawful to engage in and advertise for a prizefight, sparring match, or glove or fist contest for money or other valuable prize or stake in the City of Greensboro.  
Sec. 2. The provisions of G.S. 14-271 making it unlawful to bet or lay a wager on the result of such fight, match or contest shall remain in full force and effect in the City of Greensboro.  
Sec. 3. This act is effective upon ratification.  
In the General Assembly read three times and ratified, this the 27th day of February, 1981.

H. B. 275  

CHAPTER 63  
AN ACT TO DELAY THE EFFECTIVE DATE OF THE FAIR SENTENCING ACT.  
The General Assembly of North Carolina enacts:  
Section 1. (a) G.S. 15A-1340.1(a), as set out in the 1980 Interim Supplement to the General Statutes of North Carolina, is amended by deleting “March 1, 1981”, and inserting in lieu thereof “April 15, 1981”.
(b) Section 42 of Chapter 1316 of the Session Laws of 1979 (1980 Session) (also set forth in the annotation to G.S. 15A-1371 contained in the 1980 Interim Supplement to the General Statutes) is amended by deleting “March 1, 1981”, and inserting in lieu thereof “April 15, 1981”.
(c) Section 6 of Chapter 760 of the Session Laws of 1979, as amended by Section 47 of Chapter 1316 of the Session Laws of 1979 (1980 Session) is further amended by deleting “March 1, 1981”, and inserting in lieu thereof “April 15, 1981”.
(d) Section 48 of Chapter 1316 of the Session Laws of 1979 (1980 Session), is amended by deleting “March 1, 1981”, and inserting in lieu thereof “April 15, 1981”.
(e) Sections 2 and 7 of Chapter 1251 of the Session Laws of 1979 (1980 Session) are amended in line 1 by deleting “March 1, 1981”, and inserting in lieu thereof “April 15, 1981”.

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Sec. 2. This act is effective upon ratification.
   In the General Assembly read three times and ratified, this the 27th day of
   February, 1981.

S. B. 55          CHAPTER 64
AN ACT TO SPECIFICALLY INCLUDE “NURSING HOMES” WITHIN
THE DEFINITION OF “HEALTH CARE FACILITIES” AS CONTAINED
IN G.S. CHAPTER 131A. THE HEALTH CARE FACILITIES FINANCE
ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 131A-3, as it appears in the 1979 Cumulative
Supplement to Volume 3B of the General Statutes, is amended by inserting on
line 7 of subdivision (4) thereof between the words and punctuation “facilities
for intensive care and self-care;” and “clinics”, the words and punctuation,
“nursing homes, including skilled nursing facilities and intermediate care
facilities;”.

Sec. 2. This act is effective upon ratification.
   In the General Assembly read three times and ratified, this the 27th day of
   February, 1981.

H. B. 126          CHAPTER 65
AN ACT TO CLARIFY THAT WHEN THE SALES TAX ON AN ITEM IS
SUBJECT TO A MAXIMUM DOLLAR AMOUNT, THE USE TAX IS
SUBJECT TO THE SAME RESTRICTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.6(1) and G.S. 105-164.6(2) are amended by
deleting the words “the same rate shall be used”, and inserting in lieu thereof
the words “the same rate, and maximum tax if any, shall be used”.

Sec. 2. This act shall become effective July 1, 1981.
   In the General Assembly read three times and ratified, this the 2nd day of
   March, 1981.

H. B. 175          CHAPTER 66
AN ACT TO ALLOW CITIES AND COUNTIES TO EXPEND LOCAL TAX
FUNDS IN SUPPORT OF THE ARTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-209(c) is amended by inserting a new paragraph to
read:
“(5a) Arts programs and museums. To provide for arts programs and
museums as authorized in G.S. 160A-488.”.

Sec. 2. G.S. 153A-149(c) is amended by inserting a new paragraph to
read:
“(6a) Arts programs and museums. To provide for arts programs and
museums as authorized in G.S. 160A-488.”.

Sec. 3. This act is effective upon ratification.
   In the General Assembly read three times and ratified, this the 2nd day of
   March, 1981.
S. B. 64  

CHAPTER 67  

AN ACT AMENDING G.S. 20-88(b)(4) TO REDEFINE FARM PRODUCTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-88(b)(4) is amended by deleting the words "cattle, hogs" and substituting the word "livestock".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of March, 1981.

S. B. 65  

CHAPTER 68  

AN ACT TO REPEAL A RESTRICTION IN THE CHARTER OF THE CITY OF DOVER CONCERNING SPIRITUOUS LIQUORS.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 375, Private Laws of 1901, is repealed.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of March, 1981.

H. B. 123  

CHAPTER 69  

AN ACT DEFINING THE SHARE OF THE SURVIVING SPOUSE UNDER THE LAWS OF INTESTATE SUCCESSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 29-14 is rewritten to read:

"§ 29-14. Share of surviving spouse.—(a) Real property. The share of the surviving spouse in the real property is:

(1) if the intestate is survived by only one child or by any lineal descendant of only one deceased child, a one-half undivided interest in the real property;

(2) if the intestate is survived by two or more children, or by one child and any lineal descendant of one or more deceased children or by lineal descendants of two or more deceased children, a one-third undivided interest in the real property;

(3) if the intestate is not survived by a child, children or any lineal descendant of a deceased child or children, but is survived by one or more parents, a one-half undivided interest in the real property;

(4) if the intestate is not survived by a child, children or any lineal descendant of a deceased child or children, or by a parent, all the real property.

(b) Personal property. The share of the surviving spouse in the personal property is:

(1) if the intestate is survived by only one child or by any lineal descendant of only one deceased child, and the net personal property does not exceed fifteen thousand dollars ($15,000) in value, all of the personal property; if the net personal property exceeds fifteen thousand dollars ($15,000) in value, the sum of fifteen thousand dollars ($15,000) plus one-half of the balance of the personal property;"
(2) if the intestate is survived by two or more children, or by one child and any lineal descendant of one or more deceased children, or by lineal descendants of two or more deceased children, and the net personal property does not exceed fifteen thousand dollars ($15,000) in value, all of the personal property; if the net personal property exceeds fifteen thousand dollars ($15,000) in value, the sum of fifteen thousand dollars ($15,000) plus one-third of the balance of the personal property:

(3) if the intestate is not survived by a child, children, or any lineal descendant of a deceased child or children, but is survived by one or more parents, and the net personal property does not exceed twenty-five thousand dollars ($25,000) in value, all of the personal property; if the net personal property exceeds twenty-five thousand dollars ($25,000) in value, the sum of twenty-five thousand dollars ($25,000) plus one-half of the balance of the personal property:

(4) if the intestate is not survived by a child, children, or any lineal descendant of a deceased child or children, or by a parent, all of the personal property.”

Sec. 2. This act is effective upon ratification and applies to estates of persons dying on or after that date.

In the General Assembly read three times and ratified, this the 5th day of March, 1981.

H. B. 233 CHAPTER 70
AN ACT TO PROVIDE THAT THE MAYOR OF THE TOWN OF EUREKA SHALL SERVE A FOUR-YEAR TERM, AND TO PROVIDE THAT THE TOWN BOARD OF COMMISSIONERS OF THE TOWN OF EUREKA SHALL SERVE STAGGERED FOUR-YEAR TERMS.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 459, Session Laws of 1949, as amended by Section 1 of Chapter 136, Session Laws of 1959, is further rewritten to read:

“Beginning with the 1981 municipal election and quadrennially thereafter, the Mayor shall be elected to a four-year term. The governing body of the Town of Eureka shall consist of five commissioners. At the 1981 municipal election, the two persons receiving the highest number of votes shall be elected to a four-year term. The three persons receiving the next highest number of votes shall be elected to a two-year term. In 1983 and quadrennially thereafter, three commissioners shall be elected for four-year terms. In 1985 and quadrennially thereafter, two commissioners shall be elected for four-year terms.”

Sec. 2. This act is effective beginning with the 1981 municipal election.

In the General Assembly read three times and ratified, this the 6th day of March, 1981.
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S. B. 52  CHAPTER 71
AN ACT TO ABOLISH THE ASHEVILLE BOXING AND WRESTLING COMMISSION AND TO EXEMPT THE CITY OF ASHEVILLE FROM CERTAIN PROVISIONS OF THE GENERAL STATUTES RELATING TO PRIZE FIGHTING.

The General Assembly of North Carolina enacts:


Sec. 2. G.S. 14-271 is hereby amended by adding at the end of said section the following provision: "Provided, that the provisions of this section making it unlawful to engage in a prize fight, sparring match, or glove or fist contest for money or other valuable prize or stake shall not apply to the City of Asheville."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of March, 1981.

S. B. 104  CHAPTER 72
AN ACT TO INCREASE FEES OF THE NORTH CAROLINA BOARD OF PHARMACY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-60 is amended in line 3 by deleting the language "forty dollars ($40.00)"; in line 4 by deleting the language "twenty-five dollars ($25.00)", and substituting "seventy-five dollars ($75.00)"; in line 6 and 7 by deleting the language "forty dollars ($40.00)"; in lines 6 and 7 by deleting the language "one hundred dollars ($100.00)", and substituting "two hundred dollars ($200.00)"; in line 7 by deleting the language "twenty-five dollars ($25.00)", and substituting "forty dollars ($40.00)"; in line 8 by deleting the language "one hundred dollars ($100.00)", and substituting "two hundred dollars ($200.00)"; and in line 9 by deleting the language "fifty dollars ($50.00)", and substituting "one hundred dollars ($100.00)"

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of March, 1981.

S. B. 105  CHAPTER 73
AN ACT TO ALLOW THE TOWN OF BROADWAY TO CONVEY BY PRIVATE SALE A TRACT OF LAND TO THE UNITED STATES OR ASSIGNS FOR CONSTRUCTION OF A POST OFFICE.

Whereas, the Town of Broadway desires to have a post office constructed within the town; and

Whereas, a tract of land adjacent to the Town Hall is suitable and is under ownership of the Town of Broadway; and

Whereas, the Town of Broadway desires to dispose of such land by private sale; Now, therefore,

The General Assembly of North Carolina enacts:
Section 1. The Town of Broadway is hereby authorized to convey by good and sufficient deed its right, title and interest in and to a parcel of land containing 38,000 square feet more or less, located between the Town Hall and the Community Building, to be subdivided from a tract of land, a map of which is recorded in Book 259, Page 535, Lee County registry, by private sale with consideration, to the United States or any department, agency or instrumentality, including the United States Postal Service, or the assigns of any of them.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of March, 1981.

S. B. 106  
CHAPTER 74
AN ACT TO ALLOW THE TOWN OF BATTLEBORO TO COLLECT ON MOTOR VEHICLES A TAX OF NOT MORE THAN FIVE DOLLARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-97(a) is amended by adding immediately after the words “Town of Stoneville” each time they appear the words “, the Town of Battleboro”.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of March, 1981.

S. B. 99  
CHAPTER 75
AN ACT TO PERMIT MILITARY PRACTITIONERS TO WRITE PRESCRIPTIONS FOR MILITARY MEMBERS AND DEPENDENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-87(23)a. is rewritten to read:

“a. A written order or other order which is promptly reduced to writing for a controlled substance as defined in this Article, or for a preparation, combination, or mixture thereof, issued by a practitioner who is licensed in this State to administer or prescribe drugs in the course of his professional practice; or issued by a practitioner serving on active duty with the Armed Forces of the United States or the United States Veterans Administration who is licensed in this or another state or Puerto Rico, provided the order is written for the benefit of eligible beneficiaries of armed services medical care; a prescription does not include an order entered in a chart or other medical record of a patient by a practitioner for the administration of a drug; or”

Sec. 2. G.S. 106-134.1(a)(4)a. is amended by inserting immediately after the words: “to administer such drug,” the words “or authorized to issue orders pursuant to G.S. 90-87(23)(a),”.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of March, 1981.
CHAPTER 76  Session Laws—1981

H. B. 249  CHAPTER 76
AN ACT TO PERMIT MACHINERY ACT SERVICE OF PROCESS BY REGISTERED MAIL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-368(b) is amended by deleting the first two sentences and by substituting the following:

"To proceed under this section, the tax collector shall serve or cause to be served upon the taxpayer and the person owing or having in his possession the wages, rents, debts or other property sought to be attached a notice as provided by this subsection. The notice may be personally served by any deputy or employee of the tax collector or by any officer having authority to serve summonses, or may be served in any manner provided in Rule 4 of the North Carolina Rules of Civil Procedure."

Sec. 2. This act is effective upon ratification and applies to all attachments and garnishments commenced on or after this date.

In the General Assembly read three times and ratified, this the 9th day of March, 1981.

H. B. 170  CHAPTER 77
AN ACT TO AUTHORIZE THE ESTABLISHMENT OF A TREATMENT FACILITY FOR EMOTIONALLY DISTURBED CHILDREN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122, Article 12A is amended by changing the title to read:

"FACILITIES FOR TREATMENT AND EDUCATION OF EMOTIONALLY DISTURBED CHILDREN"; and is further amended by the addition of a new section to read:

"§ 122-98.2. Department of Human Resources to operate treatment facilities for emotionally disturbed children.—The Department of Human Resources is authorized to operate the treatment facility located in Butner, N. C., for emotionally disturbed children. The procedures prescribed by Article 4 of this Chapter shall be utilized in admitting children to treatment facilities under the authorization of this section."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of March, 1981.

H. B. 214  CHAPTER 78
AN ACT TO DELETE THE REQUIREMENT THAT TEACHERS AND OTHER SCHOOL EMPLOYEES RECEIVE AN ANNUAL EXAMINATION FOR TUBERCULOSIS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-143 is amended by repealing the second sentence of the first paragraph.

Sec. 2. G.S. 115-143 is further amended by deleting from the third sentence of the first paragraph the words, "Provided that a", and by substituting the letter "A".

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Sec. 3. This act shall become effective July 1, 1981.
In the General Assembly read three times and ratified, this the 10th day of March, 1981.

S. B. 49  CHAPTER 79
AN ACT TO PROVIDE THAT THE CITY MANAGER OF THE CITY OF HENDERSONVILLE NEED NOT BECOME A RESIDENT OF THAT CITY.

The General Assembly of North Carolina enacts:

Section 1. The next to last sentence of Section 5.1 of the Charter of the City of Hendersonville, as found in Section 1 of Chapter 874, Session Laws of 1971, is amended by inserting the words “but shall become a resident of the City”, and deleting the word thereof the words “but shall become a resident of Henderson County”.

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 11th day of March, 1981.

H. B. 130  CHAPTER 80
AN ACT TO MAKE THE EFFECTIVE DATE OF THE INDIVIDUAL INCOME TAX PROVISION FOR THE SALE OF A PRINCIPAL RESIDENCE BY THE ELDERLY THE SAME AS THE FEDERAL PROVISION.

The General Assembly of North Carolina enacts:

Section 1. Section 102 of Chapter 801, Session Laws of 1979, as amended by Section 2 of Chapter 1301, Session Laws of 1979 (Second Session 1980), is further amended by inserting the words “taxable years beginning on and after July 27, 1978”, and deleting the word thereof the words “taxable years ending on and after July 27, 1978”.

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 11th day of March, 1981.

H. B. 146  CHAPTER 81
AN ACT TO REQUIRE REPORTING OF POSITIVE TUBERCULOSIS TESTS BY LABORATORIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-82.2 is added to Article 8 of Chapter 130, as follows:

“§ 130-82.2. Persons in charge of laboratories shall report positive tuberculosis tests.—(a) The person in charge of any bacteriological or pathological laboratory rendering diagnostic service in this State shall report to the Department of Human Resources within seven days after diagnosis, the full name and other required information relating to the person whose sputa, gastric contents, or other specimens submitted for examination reveal the presence of tubercle bacilli. The report shall include the name and address of the physician or any person or agency referring the positive specimen for clinical diagnosis.

(b) The Commission for Health Services is authorized to make rules prescribing the form and content of the report.

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(c) The information contained in the reports required by subsection (a) shall be provided by the Department of Human Resources to local health departments for public health purposes. The reports shall be confidential, shall not be public records as defined by G.S. 132-1, and shall be admissible into evidence in any court only upon order of the court under the procedure set forth in G.S. 8-53.

(d) The willful and unauthorized release by an employee or officer of any State or local agency, department, or commission of the information contained in the reports required by subsection (a) is a misdemeanor, punishable by a fine of fifty dollars ($50.00), or imprisonment of 30 days or both."

Sec. 2. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 12th day of March, 1981.

H. B. 210

CHAPTER 82
AN ACT TO ALTER THE DISTRIBUTION OF PROFITS OF THE PITTSBORO ABC BOARD.

The General Assembly of North Carolina enacts:

Section 1. Chapter 365 of the 1967 Session Laws, as amended by Chapter 1162 of the 1979 Session Laws (2nd Session 1980), is amended by rewriting Section 9 of that Chapter to read:

"Section 9. The Town of Pittsboro Board of Alcoholic Beverage Control shall, out of the gross revenue derived from the operation of Alcoholic Beverage Control Stores, pay all salaries, costs and operating expenses and retain a sufficient and proper working capital, the amount thereof to be determined by the Town Board of Alcoholic Beverage Control. The remaining revenue, as determined by annual audit, shall be distributed quarterly by the Town of Pittsboro Board of Alcoholic Beverage Control as follows:

1) Five percent (5%) to the general fund of the town of Pittsboro to be used for law enforcement purposes.

2) Eighty percent (80%) to the general fund of the town of Pittsboro to be expended as follows:

(a) Ten percent (10%) for debt retirement of the town. During any period when the town has no debts, then this ten percent (10%) may be used for any and all purposes for which tax and nontax revenues may be expended by the town;

(b) Ten percent (10%) for library, recreational or other similar purposes carried on by the town;

(c) The remaining revenues shall be used for any and all purposes for which tax and nontax revenues may be expended by the town.

3) Ten percent (10%) to the general fund of Chatham County to be used for education or any other public purpose for which tax and nontax revenues may be expended by the county.

4) Five percent (5%) to the general fund of Chatham County to be used for law enforcement purposes in the county."

Sec. 2. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 12th day of March, 1981.
H. B. 64

CHAPTER 83

AN ACT TO MAKE TECHNICAL AND CLARIFYING CORRECTIONS TO SCHEDULE B OF THE REVENUE ACT TO REFLECT SUBSTANTIVE CHANGES MADE BY THE GENERAL ASSEMBLY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-33(d) is amended by deleting the figure: "105-48;".

Sec. 2. G.S. 105-33(k) is amended by deleting the words and figures "G.S. 105-61, 105-62, 105-79 and/or 105-84" and inserting in lieu thereof "G.S. 105-61, 105-62 and/or 105-65.2."

Sec. 3. G.S. 105-37.1(a), G.S. 105-38(7) and G.S. 105-39(c) are each amended by deleting the words and figures "G.S. 105-164 to 105-187" each time they appear, and inserting in lieu thereof the words and figures "G.S. 105-164.1 to G.S. 105-164.44".

Sec. 4. G.S. 105-41(a) is amended by deleting in both places they appear the words "Chapter 89", and inserting in lieu thereof the words "Chapter 89C".

Sec. 5. G.S. 105-41(g) is amended by deleting in both places they appear the words "next term", and inserting in lieu thereof the words "next session".

Sec. 6. G.S. 105-42 is rewritten to read:

"§ 105-42. Private detectives.—(a) Every person engaged in business as a 'private detective' or 'private investigator' shall apply for and obtain from the Secretary of Revenue a statewide license for the privilege of engaging in such business, and shall pay for such license a tax of twenty-five dollars ($25.00). However, no officer or employee of this State, or of the United States, or of any political subdivision of either, while such officer or employee is engaged in the performance of official duties within the course and scope of his governmental employment, shall be subject to the tax imposed by this section.

(b) 'Private detective' or 'private investigator' means any person who engages in the business of or accepts employment to furnish, agrees to make, or makes an investigation for the purpose of obtaining information with reference to:

(1) crime or wrong done or threatened against the United States or any state or territory of the United States;

(2) the identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation, or character of any person;

(3) the location, disposition, or recovery of lost or stolen property;

(4) the cause or responsibility for fires, libels, losses, accidents, damages, or injuries to persons or to properties, provided that scientific research laboratories and consultants shall not be included in this definition;

(5) securing evidence to be used before any court, board, officer, or investigation committee; or

(6) protection of individuals from serious bodily harm or death. However, the employee of a security department of a private business which conducts investigations exclusively on matters internal to the business affairs of the business shall not be required to be licensed as a private detective or investigator under this section.

(c) So long as private detectives and private investigators are required to be licensed pursuant to the provisions of Chapter 74C of the General Statutes, or any successor thereto, no license shall be issued pursuant to this section until
the applicant exhibits to the Secretary of Revenue an original or certified copy of the license required by Chapter 74C, or any successor thereto.

(d) No county, city or town shall levy any license tax on the business taxed under this section.”

Sec. 7. G.S. 105-65.1(a) is amended in the last line by deleting the words "subsection (b)(3)", and inserting in lieu thereof the words "G.S. 105-65.2".

Sec. 8. G.S. 105-83(a) is amended in the fourth line by adding immediately after the word "where," the words "at the time of or in connection with the execution of said instruments."

Sec. 9. G.S. 105-83(b) is amended by deleting the words "on the first day," and inserting in lieu thereof the words "no later than the twentieth day" and also by deleting the words "preceding three months" and inserting in lieu thereof the words "preceding three calendar months".

Sec. 10. This act is effective upon ratification, except that Sections 6, 8 and 9 shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 12th day of March, 1981.

S. B. 123

CHAPTER 84

AN ACT TO AMEND THE REQUIREMENTS FOR A SUPERVISOR OF ELECTIONS AND THE PROCEDURE FOR TERMINATION OF SUCH EMPLOYMENT.

The General Assembly of North Carolina enacts:

Section 1. Subsections (a) and (b) of G.S. 163-35 are rewritten to read:

"(a) In the event a vacancy occurs in the office of county supervisor of elections in any of the county boards of elections in this State, the county board of elections shall submit the name of the person it recommends to fill the vacancy, in accordance with provisions specified in this section, to the Executive Secretary-Director of the State Board of Elections who shall issue a letter of appointment. A person shall not serve as a supervisor of elections if he:

(1) holds any elective public office;
(2) is a candidate for any office in a primary or election;
(3) holds any office in a political party or committee thereof;
(4) is a campaign chairman or finance chairman for any candidate for public office or serves on any campaign committee for any candidate;
(5) has been convicted of a felony in any court unless his rights of citizenship have been restored pursuant to the provisions of Chapter 13 of the General Statutes of North Carolina;
(6) has been removed at any time by the State Board of Elections following a public hearing; or
(7) is a member or a spouse, child, spouse of child, parent, sister, or brother of a member of the county board of elections by whom he would be employed.

(b) Appointment, Duties; Termination. Upon receipt of a nomination from the county board of elections stating that the nominee for Supervisor of Elections is submitted for appointment upon majority selection by the county board of elections the Executive Secretary-Director shall issue a letter of appointment of such nominee to the chairman of the county board of elections within 10 days after receipt of the nomination. Thereafter, the county board of
electations shall enter in its Official Minutes the specified duties, responsibilities and designated authority assigned to the supervisor by the county board of elections. A copy of the specified duties, responsibilities and designated authority assigned to the supervisor shall be filed with the State Board of Elections.

Termination of employment of a supervisor of elections shall be upon a majority vote by the county board of elections following notice of 15 days to the Supervisor."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of March, 1981.

S. B. 155

CHAPTER 85

AN ACT TO SEPARATE THE ACTIVITIES OF THE HOUSE AND SENATE COMMITTEES ON PENSIONS AND RETIREMENT.

The General Assembly of North Carolina enacts:

Section 1. Article 14A of Chapter 120 of the General Statutes is amended by rewriting the title of that Article to read: "Committees on Pensions and Retirement".

Sec. 2. G.S. 120-111.1 is amended by deleting all of that section after the second sentence.

Sec. 3. G.S. 120-111.2 is amended in the third line by deleting the words "Joint Committee on Pensions and Retirement" and substituting in lieu thereof the words "Senate and House Committees on Pensions and Retirement".

Sec. 4. G.S. 120-111.3 is amended by deleting the word "Joint" in the seventh and eight lines of that section.

Sec. 5. G.S. 120-111.4 is amended to read:

"§ 120-111.4. Staff and actuarial assistance.—Upon application of the Chairman of the Senate or House Committee on Pensions and Retirement, the Legislative Services Commission shall provide staff, including actuarial assistance, to aid the committee in its work."

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of March, 1981.

H. B. 68

CHAPTER 86

AN ACT TO EXEMPT FROM PROPERTY TAXATION "BILL AND HOLD" GOODS OWNED BY NONRESIDENTS AND HELD FOR SHIPMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-275 is amended by adding a new subdivision to read as follows:

"(26) For the tax year immediately following transfer of title, tangible personal property manufactured in this State for the account of a nonresident customer and held by the manufacturer for shipment. For the purpose of this subdivision, the term 'nonresident' means a taxpayer having no place of business in North Carolina."

Sec. 2. G.S. 105-282.1(2) is amended by deleting the words "and (15)", and inserting in lieu thereof "., (15) and (26)".
Sec. 3. This act shall become effective January 1, 1982.
In the General Assembly read three times and ratified, this the 13th day of March, 1981.

H. B. 172

CHAPTER 87
AN ACT TO CLARIFY THE PROCEDURE FOR PURGING VOTER REGISTRATION RECORDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-69, as the same appears in Volume 3D of the General Statutes, is amended by rewriting the first sentence in the fourth paragraph to read:

"In addition, beginning no later than January 2, 1981, following the presidential election in 1980 and thereafter in the period beginning no later than 30 days after each subsequent presidential election, the county board of elections shall not remove from the permanent registration records the name of any person who voted, according to the poll or other record of voting, in either:

(1) one of the two most recent successive presidential elections, or
(2) in any other election conducted in the period between the two presidential elections.

Any voter who neither voted in the first nor the second of the two most recent consecutive presidential elections and who failed to vote in any other election conducted in the period between the two presidential elections shall be purged."

Sec. 2. All purges previously processed in accordance with provisions contained in this act are hereby validated.

Sec. 3. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 13th day of March, 1981.

H. B. 187

CHAPTER 88
AN ACT TO REQUIRE A PERMIT FROM THE CHARLOTTE FIRE DEPARTMENT FOR PYROTECHNICS EXHIBITIONS WITHIN THE CITY LIMITS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-413 is hereby amended by adding a sentence at the end thereof as follows:

"In addition to the other permit requirements contained in this section, any person, firm, corporation or association desiring to conduct a pyrotechnics exhibition within the corporate limits of the City of Charlotte shall first obtain a permit from the Charlotte Fire Department. The Charlotte Fire Department is hereby authorized to establish rules and regulations with regard to the issuance of such permits. In issuing such permits, the Charlotte Fire Department shall consider the public health and safety."

Sec. 2. This act shall apply to the City of Charlotte only.

Sec. 3. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 13th day of March, 1981.
H. B. 188  

CHAPTER 89  

AN ACT RELATING TO THE LETTING OF PUBLIC CONTRACTS BY THE CITY OF CHARLOTTE.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 352 of the Session Laws of 1979 is repealed.

Sec. 2. G.S. 143-129 is hereby amended by deleting the words and figures "five thousand dollars ($5,000)", as the same appears in line 5 and substituting in lieu thereof the words and figures "thirty thousand dollars ($30,000)."

Sec. 3. This act shall apply to the City of Charlotte only.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of March, 1981.

H. B. 191  

CHAPTER 90  

AN ACT TO ABOLISH THE NORTH CAROLINA TRAFFIC SAFETY AUTHORITY.

The General Assembly of North Carolina enacts:

Section 1. Article 44 of Chapter 143 of the General Statutes is repealed.

Sec. 2. G.S. 143B-359 is repealed.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of March, 1981.

H. B. 228  

CHAPTER 91  

AN ACT TO PROHIBIT ANNEXATION INTO DAVIE COUNTY BY ANY GOVERNMENTAL UNIT LOCATED OUTSIDE OF DAVIE COUNTY, AND TO PROHIBIT ANNEXATION OF NONCONTIGUOUS TERRITORY WITHIN DAVIE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Except as provided by Section 2 of this act, no city, special district, or other political subdivision of North Carolina located primarily outside of Davie County may annex any territory within Davie County or extend its extraterritorial jurisdiction into Davie County.

Sec. 2. A city located primarily outside of Davie County may annex territory inside of Davie County pursuant to the provisions of G.S. 160A-31.

Sec. 3. All laws, both general and local, in conflict with this act are repealed insofar as they are in conflict.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of March, 1981.
CHAPTER 92
Session Laws—1981

H. B. 238
CHAPTER 92
AN ACT TO EXTEND TIME TO START THIRD PARTY SUIT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1A-1, Rule 14(a) is amended by deleting from the second sentence of the first paragraph the phrase “five days” and by substituting the phrase “forty-five days”.

Sec. 2. This act shall become effective October 1, 1981, and applies to actions commenced on or after this date.

In the General Assembly read three times and ratified, this the 13th day of March, 1981.

H. B. 254
CHAPTER 93
AN ACT TO CLARIFY THE AVAILABILITY OF CIVIL LIABILITY PROTECTION FOR OUTSIDE LAW ENFORCEMENT OFFICERS PROVIDING AID TO LAW ENFORCEMENT AGENCIES REQUESTING ASSISTANCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-95.2(a) is amended by inserting in the 8th line between the words “immunities” and the word “as” the following: “(including those relating to the defense of civil actions and the payment of judgments)”.

Sec. 2. G.S. 160A-288(a) is amended by inserting in the 11th line between the words “immunities” and the word “as” the following: “(including those relating to the defense of civil actions and the payment of judgments)”.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of March, 1981.

H. B. 318
CHAPTER 94
AN ACT TO AUTHORIZE THE DARE COUNTY COMMUNITY CENTER TO CONVEY ITS ASSETS TO DARE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 1100, Session Laws of 1949, as rewritten by Section 1 of Chapter 327, Session Laws of 1953 is amended by adding the following new language at the end:

“The Dare County Community Center, a quasi-public corporation created by Chapter 542, Public-Local Laws of 1939, may convey any or all of its property, real or personal, including land, buildings or other assets, to the County of Dare without consideration.”

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of March, 1981.
H. B. 337

CHAPTER 95

AN ACT RELATING TO THE BOARD OF TRUSTEES OF THE HAYWOOD COUNTY HOSPITAL.

The General Assembly of North Carolina enacts:

Section 1. Board of Trustees, appointment. From and after the first regular meeting of the Haywood County Board of Commissioners following the date of ratification of this act, the Board of Trustees of the Haywood County Hospital shall consist of eight persons appointed by the Haywood County Board of Commissioners. The three persons appointed on the last Saturday in December 1978 for terms to expire on the last Saturday in December 1982 and the person appointed on February 2, 1981, for a term to expire on the last Saturday of December 1984 shall serve the remainder of the terms for which they were appointed. The four other members of the Board of Trustees shall be appointed by the Haywood County Board of Commissioners at its first regular meeting following the date of ratification of this act; one person shall be appointed for a term to expire on the last Saturday in December 1982, and three persons shall be appointed for terms to expire on the last Saturday in December 1984. Of the eight members of the Board of Trustees, one shall be actively engaged in the licensed practice of medicine in Haywood County and none shall be an employee of the Haywood County Hospital. Four members of the Board of Trustees shall be residents of the Tuscalo High School District and four shall be residents of the Pisgah High School District.

Sec. 2. Term of office. Upon expiration of the above terms of office, all successors shall be appointed for four-year terms to expire on the last Saturday of the fourth year and shall meet the qualifications required in Section 1. Each trustee shall serve until his or her successor is appointed and qualified. No trustee may serve more than two consecutive four-year terms.

Sec. 3. Vacancies. All vacancies on the Board of Trustees shall be filled by the Haywood County Board of Commissioners. The appointment shall be for the unexpired term of the trustee creating the vacancy, and shall not prevent a trustee from reappointment to a successive term. A trustee may be reappointed for one additional four-year term following consecutively the expiration of the term to which he was originally appointed. Following a minimum of one year of nonservice, an individual may again be appointed to the Board of Trustees of the Haywood County Hospital.

Sec. 4. Meetings; compensation. The Board of Trustees of the Haywood County Hospital shall, at its first meeting in each year, elect a chairman, vice-chairman, and a secretary.

The Board of Trustees shall hold a regular meeting once each month at an announced time and place, and may hold as many additional meetings as it deems necessary.

The chairman of the Board of Trustees shall receive as compensation the sum of thirty dollars ($30.00) per meeting, and the members of the Board of Trustees shall receive twenty dollars ($20.00) per meeting. The chairman and members shall not be compensated for more than one full meeting per month. The chairman and members shall receive as compensation for no more than one committee meeting attended per month, the sum of fifteen dollars ($15.00) per meeting.
CHAPTER 95  Session Laws—1981

Sec. 5. Voting. Each person on the Board of Trustees, with the exception of the chairman, shall have one vote. The chairman shall vote only in the case of a tie vote.

Sec. 6. Chapter 189, Session Laws 1975, and all other laws and clauses of laws in conflict with this act, are repealed.

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of March, 1981.

H. B. 90  CHAPTER 96
AN ACT TO VALIDATE CERTAIN NOTICES TO CREDITORS OF DECEDENTS' ESTATES.

The General Assembly of North Carolina enacts:

Section 1. Any notice to creditors published or posted under G.S. 28A-14-1 which did not, in the advertisement, name the day after which claims could not be presented is validated.

Sec. 2. This act applies to all notices published and posted between October 1, 1975, and the effective date of this act, except that it does not affect any pending litigation or any litigation instituted within ninety (90) days of the effective date of this act.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of March, 1981.

H. B. 124  CHAPTER 97
AN ACT TO REINSTATE THE COMMON LAW ON AGRICULTURAL TENANCIES IN HALIFAX COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The second paragraph of G.S. 42-23 is amended by deleting the phrase "Halifax,"

Sec. 2. This act is effective upon ratification and applies to agricultural leases and contracts made or renewed on or after that date.

In the General Assembly read three times and ratified, this the 16th day of March, 1981.

H. B. 131  CHAPTER 98
AN ACT TO REQUIRE SCHOOL BUSES TO STOP AT ALL RAILROAD GRADE CROSSINGS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-143.1(b) is hereby amended by rewriting the first two lines to read as follows: "(b) Except for school buses, the provisions of this section shall not require the driver of a vehicle to stop."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of March, 1981.
H. B. 183

CHAPTER 99

AN ACT TO PERMIT THE CITY OF CHARLOTTE TO INCREASE ITS PARKING PENALTIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-162.1 is amended by deleting the words “one dollar ($1.00)”, and inserting in lieu thereof the words “three dollars ($3.00)”.

Sec. 2. G.S. 20-162(b) is amended by adding immediately after the third sentence the words: “Any person convicted of violating this subsection shall be subject to a penalty of ten dollars ($10.00).”

Sec. 3. This act applies to the City of Charlotte only.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of March, 1981.

S. B. 137

CHAPTER 100

AN ACT TO ALLOW THE TOWN OF MAYODAN TO USE THE PROVISIONS OF CHAPTER 136 OF THE GENERAL STATUTES IN CONDEMNATION PROCEEDINGS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Mayodan, as contained in Section 1 of Chapter 501, Session Laws of 1973, is amended by adding a new section to read:

“Sec. 1.4. Eminent Domain. In the exercise of the power of eminent domain granted to the Town of Mayodan by this Charter or any other law, public or local, the town may follow the procedures now or hereafter prescribed by said laws; provided, that in the exercise of its authority of eminent domain for the acquisition of property to be used for streets and highways, water and sewer facilities, and for all other purposes authorized by the provisions of G.S. 160A-241, the Town of Mayodan is hereby authorized to use the procedure and authority prescribed in Article 9 of Chapter 136 of the General Statutes of North Carolina, as now or hereafter amended; provided, further, that all reference in Article 9 of Chapter 136 of the General Statutes to ‘Department of Transportation’ shall be deemed to mean ‘Town of Mayodan’, all reference to the ‘Secretary of Transportation’ shall be deemed to mean ‘Town Manager’ of the Town of Mayodan, all references to ‘Raleigh’ shall be deemed to mean ‘Mayodan’, and all other reference, directly or by implication, to the condemning authority or persons or agencies connected therewith shall be deemed to mean the Town of Mayodan.

Provided, however, that the provisions of this section shall not apply with regard to properties owned by public service corporations as defined in G.S. 160A-243(c) unless the exercise of such power of eminent domain is either consented to by the owner of the property to be acquired by the town, or otherwise first adjudicated after notice and a hearing that such acquisition will not prevent or unreasonably impair the continued devotion to the public use of such properties and the operation by such public service corporation.”

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of March, 1981.
CHAPTER 101   Session Laws—1981

H. B. 86   CHAPTER 101
AN ACT TO AMEND CHAPTER 133 TO PROVIDE FOR ADDITIONAL RELOCATION ASSISTANCE PAYMENTS FOR PERSONS DISPLACED BY PUBLIC WORKS PROJECTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 133-9(a) is amended by inserting in line 2 after the word "Article" the following: "and subject to the provisions of G.S. 133-10.1".

Sec. 2. G.S. 133-10 is amended by inserting in line 2 following the word "Article", the following: "and subject to the provisions of G.S. 133-10.1".

Sec. 3. G.S. 133-10.1 is amended by striking all of lines 1 through 7 and by inserting in lieu thereof the following:

"As a last resort, if a project cannot proceed to actual construction because of the lack of availability of comparable sale or rental housing, or because required federal aid payments are in excess of those otherwise authorized by this Article, the Department of Transportation may:"

Sec. 4. G.S. 133-10.1 is further amended by adding a subsection (4) to read as follows:

"(4) Exceed the limitation in G.S. 133-9(a) and G.S. 133-10".

Sec. 5. This act shall apply to all "displaced persons" as defined in Article 2 of Chapter 133, moving after May 1, 1980.

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of March, 1981.

H. B. 158   CHAPTER 102
AN ACT TO AMEND CHAPTER 35 OF THE GENERAL STATUTES TO ALLOW THE PARENT OF A MENTALLY ILL OR MENTALLY RETARDED PERSON TO PETITION THE COURT FOR THE STERILIZATION OPERATION OF THE MENTALLY ILL OR MENTALLY RETARDED PERSON.

The General Assembly of North Carolina enacts:

Section 1. G.S. 35-36 is amended by adding the following phrase at the beginning of the first sentence:

"The parent or guardian of a mentally ill or mentally retarded person, or"

Sec. 2. G.S. 35-36 is further amended by deleting in the first sentence the words "supported wholly or in part" and by substituting the word "operated".

Sec. 3. G.S. 35-37 is amended by adding the following phrase at the beginning of the first sentence: "The parent or guardian of a mentally ill or mentally retarded person, or"

Sec. 4. G.S. 35-39(4) is repealed.

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of March, 1981.
H. B. 99

CHAPTER 103

AN ACT TO EXEMPT MEMBERS OF CERTAIN BOARDS OF EDUCATION UNDER CERTAIN CIRCUMSTANCES FROM THE CONFLICT OF INTEREST PROVISIONS OF G.S. 14-234, G.S. 14-236 AND G.S. 14-237.

Whereas, elected officials of small towns, cities and counties have been authorized to provide services, facilities and supplies to public bodies that they serve by amending G.S. 14-234; and

Whereas, members of school boards are often the only professional or business owner in the area who can conveniently and inexpensively provide the services or supplies; and

Whereas, it would be in the public interest for those officials to contract with the public body on which they serve, if done properly and openly; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-234(d1) is amended on line 7 by deleting “and (iii)” and substituting:

“(iii) any elected official or person appointed to fill an elective office on a city board of education in a city having a population of no more than 7,500 according to the most recent official federal census, (iv) any elected official or person appointed to fill an elective office as a member of a county board of education in a county within which there is located no village, town or city with a population of more than 7,500 according to the most recent official federal census, and (v)”.

Sec. 2. G.S. 14-234(d1) is amended by adding in subdivision (1) following the words “county social services board,” the words “county or city board of education,” and by adding in subdivision (4) after the words “county social services board,” the words “county or city board of education,”.

Sec. 3. G.S. 14-236 is amended by adding a new paragraph at the end thereof to read:

“This section shall not apply to members of any board of education which is subject to and complies with the provisions of G.S. 14-234(d1).”

Sec. 4. G.S. 14-237 is amended by adding a new paragraph thereto to read:

“This section shall not apply to members of any board of education which is subject to and complies with the provisions of G.S. 14-234(d1).”

Sec. 5. G.S. 14-234 is amended by adding a new subsection (d2) to read as follows:

“(d2) The provision of subsection (d1) shall not apply to contracts required by Article 8 of Chapter 143 of the General Statutes, Public Building Contracts.”

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of March, 1981.
CHAPTER 104  Session Laws—1981

S. B. 115

CHAPTER 104

AN ACT TO ALLOW A BOARD OF COUNTY COMMISSIONERS TO SET THE PER DIEM OF LOCAL BOARDS OF HEALTH WITHOUT RESTRICTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-16 is amended by deleting the following language: "but no more than twenty dollars ($20.00) per diem for members and twenty-five dollars ($25.00) per diem for the chairman of the boards".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of March, 1981.

H. B. 85

CHAPTER 105

AN ACT TO AMEND THE DEFINITION OF USER-SELLER UNDER THE SPECIAL FUELS TAX ACT, AND TO AMEND THE REPORTING AND RECORD KEEPING PROCEDURES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-449.2(8) is rewritten to read:

"(8)a. ‘User-seller’ shall mean a bulk user or reseller as defined in this subdivision:

   b. ‘Bulk user’ means any person who maintains storage facilities in excess of 100 gallons and stores fuel therein, and who dispenses such fuel into the fuel tanks of, or attached to, motor vehicles owned, leased or operated by him.

   c. ‘Reseller’ means any person who maintains storage facilities in excess of 100 gallons and stores fuel therein, and who sells and/or dispenses such fuel to others into the fuel tanks of, or attached to, motor vehicles."

Sec. 2. G.S. 105-449.10 is rewritten to read:

"§ 105-449.10. Records and reports required of user-seller or user.—(a) Each user-seller or user licensed under this Article shall keep such records and make such reports to the secretary as shall be prescribed under regulations promulgated by the secretary. Such records and reports shall be such as are adequate to show all purchases, sales, deliveries and use of fuel by such seller or user, provided that persons licensed as users shall file such reports quarterly on or before the last day of the month immediately following the end of the quarter.

   (b) Each user at the time of rendering such statement, and each user otherwise exempted from filing, shall pay to the secretary the tax or taxes for the preceding calendar quarter which may be due because of fuel acquired tax-free in any manner whatsoever. The provisions of this section shall not apply to users whose use of diesel fuel is limited to private passenger vehicles and other vehicles licensed under the motor vehicle laws at 6,000 pounds or less, unless such fuel is acquired tax-free.”

Sec. 3. G.S. 105-449.21 is rewritten to read:

"§ 105-449.21. Report of purchases and payment of tax by user-seller.—On or before the last day of the month immediately following the end of the quarter, each user-seller not otherwise licensed as a supplier shall render to the secretary a statement on forms furnished by the secretary which shall be signed by the user-seller. The statement shall show the quantity of fuel on hand at the
beginning of the quarter, quantity on hand at the end of the quarter, the quantity sold or used and each and every purchase made by the user-seller during the preceding calendar quarter. Each purchase shall be specifically noted on the statement and the statement shall show the name and address of the supplier and the quantity and date of each purchase. Each user-seller at the time of rendering such statement shall pay to the secretary the tax or taxes for the preceding calendar quarter which may be due because of fuel imported or acquired tax-free in any manner whatsoever."

Sec. 4. G.S. 105-449.28 is repealed.

Sec. 5. This act shall become effective July 1, 1981, except that Section 4 shall become effective July 1, 1982.

In the General Assembly read three times and ratified, this the 19th day of March, 1981.

H. B. 206

CHAPTER 106

AN ACT TO MAKE CLARIFYING AMENDMENTS TO G.S. 14-27.2 AND G.S. 14-27.4.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-27.2(a) is rewritten to read:

"(a) A person is guilty of rape in the first degree if the person engages in vaginal intercourse:

(1) with a victim who is a child of the age of 12 years or less and the defendant is of the age of 12 years or more and is four or more years older than the victim; or

(2) with another person by force and against the will of the other person, and:

a. employs or displays a dangerous or deadly weapon or an article which the other person reasonably believes to be a dangerous or deadly weapon; or

b. inflicts serious personal injury upon the victim or another person; or

c. the person commits the offense aided and abetted by one or more other persons."

Sec. 2. G.S. 14-27.2(b) is amended by deleting the words "the offense" and substituting in lieu thereof the words "an offense".

Sec. 3. G.S. 14-27.4(a) is rewritten to read:

"(a) A person is guilty of a sexual offense in the first degree if the person engages in a sexual act:

(1) with a victim who is a child of the age of 12 years or less and the defendant is of the age of 12 years or more and is four or more years older than the victim; or

(2) with another person by force and against the will of the other person, and:

a. employs or displays a dangerous or deadly weapon or an article which the other person reasonably believes to be a dangerous or deadly weapon; or

b. inflicts serious personal injury upon the victim or another person; or

c. the person commits the offense aided and abetted by one or more other persons."
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Sec. 4. G.S. 14-27.4(b) is amended by deleting the words “the offense” and substituting in lieu thereof the words “an offense”.

Sec. 5. This act is effective upon ratification.

H. B. 262  

CHAPTER 107

AN ACT TO ALLOW THE PENDER COUNTY COMMISSIONERS TO PROVIDE FOR ABC LAW ENFORCEMENT.

The General Assembly of North Carolina enacts:

Section 1. The first paragraph of G.S. 18A-17(14) does not apply to the Pender County Board of Alcoholic Control.

Sec. 2. The Pender County Board of Alcoholic Control shall pay not less than five percent (5%) nor more than fifteen percent (15%) of its total profits as determined by quarterly audits to the Pender County General Fund, and the Pender County Commissioners shall utilize those funds exclusively to provide for law enforcement of the ABC laws in Pender County.

Sec. 3. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 19th day of March, 1981.

H. B. 302  

CHAPTER 108

AN ACT TO AMEND G.S. 20-296 TO PERMIT NOTICE BY CERTIFIED MAIL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-296 is hereby amended by striking from the second sentence thereof the words “registered mail” and inserting in lieu thereof the words “certified mail with return receipt requested”.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of March, 1981.

S. B. 168  

CHAPTER 109

AN ACT TO ALLOW THE LUMBERTON CITY SCHOOL ADMINISTRATIVE UNIT TO CONVEY BY PRIVATE SALE PART OR ALL OF A TRACT OF LAND TO THE UNITED STATES OR ASSIGNS FOR CONSTRUCTION OF A POST OFFICE.

The General Assembly of North Carolina enacts:

Section 1. The Lumberton City School Administrative Unit is hereby authorized to convey by good and sufficient deed its right title and interest in and to part or all of the following described parcel of land, at private sale with consideration, to the United States or any department, agency or instrumentality, including the United States Postal Service, or the assigns of any of them:

“Beginning at the northeast intersection of 7th and Walnut Streets and running thence along the east line of Walnut Street North 04 degrees and 15 minutes East 483.0 feet to a point in the east line of Walnut Street, thence leaving the east line of Walnut Street and running South 85 degrees and 45 minutes East
432.0 feet to a point in the west line of Pine Street, thence with the west line of Pine Street South 04 degrees and 15 minutes West 483.0 feet to the northwest intersection of Pine and 7th Streets, thence with the north line of 7th Street North 85 degrees and 45 minutes West 432.0 feet to the beginning, containing 4.79 acres including 8th Street."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of March, 1981.

S. B. 214

CHAPTER 110

AN ACT TO AUTHORIZE THE CITY OF MOUNT AIRY TO DISPOSE OF CERTAIN REAL PROPERTY BY PRIVATE NEGOTIATION AND SALE.

The General Assembly of North Carolina enacts:

Section 1. In addition to the powers now or hereafter granted to municipalities by G.S. 160A-266, the governing body of the City of Mount Airy shall have and is hereby expressly granted the power to convey by negotiation and private sale certain real property owned by the City of Mount Airy, said property being described as follows:

BEGINNING at a point on the eastern right-of-way line of U. S. Highway 52, said right-of-way being contiguous to the existing corporate limits, and thence crossing the right-of-way South 78° 28' West 260 feet to a point in the western right-of-way line of U. S. Highway 52; thence with a chord of the curve of the right-of-way North 13° 09' West 149.02 feet to a point in the bed of the old railroad right-of-way; thence with the approximate center of the old railroad right-of-way North 51° 45' West 500 feet to a point; thence North 52° 15' West 660 feet to an existing granite marker; thence North 42° West 260 feet to an existing granite marker; thence North 34° 45' West 415 feet to an existing granite marker; thence North 44° 30' West 209 feet to an existing granite marker; thence leaving the old railroad bed North 46° 20' East 750.2 feet to a point; thence North 15° 34' West 165.81 feet to a point; thence South 74° 26' West 210 feet to a point; thence North 15° 34' West 235 feet to a point; thence North 74° 26' East 110 feet to a point; thence North 15° 34' East 65 feet to a point; thence North 74° 26' East 100 feet to a point; thence North 15° 34' West 162 feet to a point; thence North 74° 18' East 65 feet to an existing granite marker, a corner for the Highway Patrol property; thence with the Highway Patrol property North 15° 42' West 209.91 feet to a point; thence North 74° 18' East 309.17 feet to an existing iron pipe in the Highway Patrol line; thence leaving the Highway Patrol line and with the approximate right-of-way line of U. S. Highway 52 North 15° 35' West 371 feet to a point, the corner of the National Guard Armory property; thence with the National Guard line South 71° 55' West 534 feet to a point; thence with the National Guard line North 18° 20' West 300 feet to an existing iron pipe, a corner for the National Guard Armory; thence with the National Guard line North 71° 55' East 311.2 feet to an existing granite marker; thence leaving the National Guard line, the next five calls running with the St. Andrews Church line: North 64° 30' West 80.7 feet to an existing granite marker; thence North 3° East 137.3 feet to an existing granite marker; thence North 18° West 145.95 feet to an existing steel pin; thence North 47° 38' West 212.48 feet to a point; thence North 42° 22' East 175 feet to an existing granite marker set 30 feet from the existing center line of the
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pavement of Old U.S. Highway 52; thence with a line 30 feet from the center line of the pavement of Old U.S. Highway 52 North 47° 38' West 136.8 to a point 7.2 feet West of an existing granite marker; thence West 1870.8 feet to a pine; thence South 6° 50' West 922 feet to a point in the old railroad right-of-way bed; thence with the old railroad right-of-way bed South 36° 45' East 745.2 feet to a point in the old railroad right-of-way bed; thence with the railroad right-of-way bed South 49° East 504 feet to a point in the bed; thence with the said bed South 53° 45' East 1355 feet to a point; thence South 36° 15' West 15 feet to a point; thence South 53° 45' East 50 feet to a point; thence South 44° 30' East 206.5 feet to a point; thence South 34° 45' East 414.7 feet to a point; thence South 42° East 262.3 feet to a point; thence South 52° 15' East 660.7 feet to a point; thence South 51° 45' East 494.2 feet to a point; thence South 12° 41' East 193.3 feet to a point; thence across the highway right-of-way North 78° 28' East 275 feet to a point in the eastern right-of-way line of U.S. Highway 52; thence with the chord of the right-of-way North 11° 21' West 50 feet to the BEGINNING, containing 103.5 acres, more or less.

Sec. 2. The above described real property may be offered for private sale by the City of Mount Airy only with the following restrictions:

(a) That the purchaser of said property be required to develop the property only for purposes allowable under M-I Industrial Zoning for the City of Mount Airy.

(b) That the industrial use and construction schedule proposed by the purchaser be approved by a resolution passed by the Mount Airy Board of Commissioners at a regular meeting.

(c) That said private sale shall be for such consideration as may be agreed upon by the governing body of the City of Mount Airy and the purchaser, which shall not be less than the fair, actual value of the property as determined by the governing body of the municipality based on competent evidence.

Sec. 3. The right to utilize the negotiation and private sale method of disposition is authorized only for the property described in Section 1.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of March, 1981.

H. B. 59  CHAPTER 111

AN ACT TO INCREASE THE MAXIMUM FIREMEN'S SUPPLEMENTAL RETIREMENT BENEFIT IN THE CITY OF HENDERSON.

The General Assembly of North Carolina enacts:

Section 1. Section 4 of Chapter 810 of the Session Laws of 1959, as amended, is further amended by deleting the sixteenth sentence, which reads: “Each retired fireman receiving supplemental benefit in accordance with this Act shall receive the same amount of supplemental benefit per month; provided that the maximum payment to any retired member of the Henderson City Fire Department from said Fund shall be fifty dollars ($50.00) per month.”, and by substituting the following two sentences: “Each retired fireman receiving supplemental benefit in accordance with this act shall receive the same amount of supplemental benefit per month. The maximum payment to any retired member of the Henderson City Fire Department from the Fund is fifty dollars.
AN ACT TO ALLOW COUNTIES TO SIMPLIFY THE PROVISIONS FOR GIVING NOTICE BEFORE CHANGING THE NAME OF A ROAD.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-240 is amended by deleting the words "prominently posted in at least three places along the road involved", and inserting in lieu thereof the words "prominently posted at the County Courthouse, in at least two public places in the township or townships where the road is located, and shall publish a notice of such hearing in each newspaper of general circulation published in the county."

Section 2. This act is effective upon ratification.

H. B. 164

CHAPTER 114

AN ACT TO PROVIDE THAT ELECTIONS IN THE TOWN OF BELWOOD IN CLEVELAND COUNTY SHALL BE CONDUCTED UNDER THE PLURALITY METHOD.

The General Assembly of North Carolina enacts:

Section 1. Section 4.1 of the Charter of the Town of Belwood, as found in Section 2 of Chapter 1208, Session Laws of 1977 (Second Session 1978) is amended by deleting the words "and the results determined by a majority of votes cast, with a runoff election if necessary, as provided by G.S. 163-279(a)(4) and G.S. 163-293", and inserting in lieu thereof the words "and the results determined by the plurality method, as provided in G.S. 163-279(a)(1) and G.S. 163-292".

Section 2. This act is effective beginning with the 1981 municipal election.

H. B. 232

CHAPTER 113

AN ACT TO PROVIDE THAT ELECTIONS IN THE TOWN OF MOORESBORO IN CLEVELAND COUNTY SHALL BE CONDUCTED UNDER THE PLURALITY METHOD.

The General Assembly of North Carolina enacts:

Section 1. Section 4.1 of the Charter of the Town of Mooresboro, as found in Section 2 of Chapter 1209, Session Laws of 1977 (Second Session 1978) is amended by deleting the words "and the results determined by a majority of votes cast, with a runoff election if necessary, as provided by G.S. 163-279(a)(4) and G.S. 163-292", and inserting in lieu thereof the words "and the results determined by the plurality method, as provided in G.S. 163-279(a)(1) and G.S. 163-292".

Section 2. This act is effective beginning with the 1981 municipal election.

H. B. 241

CHAPTER 114
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Sec. 2. This act is effective beginning with the 1981 municipal election. In the General Assembly read three times and ratified, this the 23rd day of March, 1981.

H. B. 246  CHAPTER 115
AN ACT TO ALLOW ONSLOW COUNTY TO TRANSFER COUNTY PERSONAL PROPERTY TO A VOLUNTEER FIRE DEPARTMENT OR VOLUNTEER RESCUE SQUAD.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-277(a) is amended by deleting the words “any land or interest in land”, and inserting in lieu thereof the words “any property or interest in property”.

Sec. 2. The catch line of G.S. 160A-277 is amended by deleting the word “land”, and inserting in lieu thereof the word “property”.

Sec. 3. G.S. 160A-277(a) is further amended by adding immediately after the word “facilities”, the words “, services, or equipment”.

Sec. 4. This act applies to Onslow County only.

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of March, 1981.

H. B. 325  CHAPTER 116
AN ACT RELATING TO THE LETTING OF PUBLIC CONTRACTS BY MECKLENBURG COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-129 as it is found in the 1980 Interim Supplement is amended by deleting the words and figures “five thousand dollars ($5,000)” in line 5 and substituting in lieu thereof the words and figures “thirty thousand dollars ($30,000)”.

Sec. 2. Section 2 of Chapter 1158, Session Laws of 1973 as amended by Section 1 of Chapter 352, Session Laws of 1979, is repealed.

Sec. 3. This act shall apply to Mecklenburg County only.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of March, 1981.

H. B. 326  CHAPTER 117
AN ACT TO ALLOW THE MECKLENBURG COUNTY BOARD OF COMMISSIONERS TO DELEGATE APPROVAL OF PERMITS FOR STORAGE AND SALE OF EXPLOSIVES AND THE EXHIBITION OF PYROTECHNICS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-284 is amended by adding immediately after the words “board of commissioners” the words “(or its delegate)”.

Sec. 2. G.S. 14-410 and G.S. 14-413 are each amended by adding immediately after the words “board of county commissioners”, the words “(or its delegate)”.

Sec. 3. This act applies to Mecklenburg County only.
Sec. 4. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 23rd day of March, 1981.

H. B. 345  CHAPTER 118
AN ACT TO PERMIT THE CITY OF LUMBERTON TO PARTICIPATE IN THE URBAN DEVELOPMENT ACTION PROGRAM AND TO LEND OR GRANT THE MONEYS RECEIVED FROM THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TO PRIVATE DEVELOPERS.

Whereas, the Congress of the United States enacted the Housing and Community Development Act of 1977 (Public Law 95-128) authorizing the Secretary of Housing and Urban Development to make Urban Development Action Grants to distressed cities and towns which require increased public assistance and private investment to alleviate physical and economic deterioration; Now, therefore,
The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 119, Session Laws of 1979 (Second Session, 1980) as amended by Chapter 11, Session Laws of 1981, is further amended by adding immediately after the words "City of Clinton" the words, "City of Lumberton."

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 23rd day of March, 1981.

H. B. 346  CHAPTER 119
AN ACT TO CLARIFY THE CIRCUMSTANCES UNDER WHICH THE CITY OF LUMBERTON MAY MAKE LOCAL IMPROVEMENTS.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 115, Session Laws of 1963, being the Charter of the City of Lumberton, is amended by deleting the following language from Section 8 of Article XIII:
"No petition shall be necessary for the making of any local improvements for which the City bears the entire cost without assessment;".

Sec. 2. The Charter of the City of Lumberton is further amended by adding the following new section to Article XIII:
"Section 8.1. NO PETITION REQUIRED IF NO ASSESSMENT. No petition shall be necessary for the making of any local improvements for which the City bears the entire cost without assessment."

Sec. 3. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 23rd day of March, 1981.
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H. B. 347  CHAPTER 120
AN ACT TO ALLOW THE CITY OF LUMBERTON TO EXPAND THE SIZE OF ITS BOARD OF BUILDING APPEALS.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 115 of the Session Laws of 1963, being the Charter of the City of Lumberton, is amended in Section 5(b) of Article VIII of the Charter by deleting the words "five members", and inserting in lieu thereof the words "five or more members".

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 23rd day of March, 1981.

H. B. 367  CHAPTER 121
AN ACT TO AUTHORIZE MCDOWELL COUNTY TO CONVEY BY PRIVATE SALE A TRACT OF LAND TO MARION GENERAL HOSPITAL, INCORPORATED.

The General Assembly of North Carolina enacts:

Section 1. McDowell County is hereby authorized to convey at private sale with or without monetary consideration by good and sufficient deed to Marion General Hospital, Incorporated, its right, title, and interest in and to the following described parcel of land:

"Being that tract of land containing 50.00 Acres, DMD, located in Marion Township, McDowell County, N. C.; and bounded by lands owned by and/or in the possession of persons as follows: on the East by William Woessner (DB 242, page 433) and by the Oak Crest Subdivision (Ref. DB 235, page 798) on the South by Billy Brown (DB 194, page 562), Hooper and Rutherford (DB 273, page 393) and Norman Killough (DB 155, page 120); on the West by Sam Gibson (DB 58, page 57) and by Hugh Bailey Nystrom, et al (DB 186, page 608) of which this conveyance is a part; and on the North by Hugh Bailey Nystrom et al, and being more particularly described by courses based on magnetic north and distances according to a survey for Marion General Hospital with an error of closure of 1'27.495 by R. Larry Greene, RLS No. L-1517, dated the 18th day of August, 1980 as follows:
BEGINNING at an iron pin in the William Woessner line, said iron pin being located S 58-56-54 W 896.18' from a 15" maple corner, the 22nd corner of the Nystrom property (DB 186, page 608) of which this conveyance is a part, said iron pin also lying S 14-13-00 W 376.77' from an existing iron pin, the SW corner of the McDowell County Board of Education property, and runs thence from said beginning point and with the Woessner line S 58-56-54 W 384.99' to an existing iron pin corner of Woessner, Oak Crest Subdivision, and Nystrom (being Nystroms 21st corner) thence with Oak Crest Subdivision S 29-40-36 W 1104.11' to an existing iron pin (Nystroms 20th corner), thence with the lines of Billy Brown, Hooper and Rutherford, and Norman Killough N 83-41-24 W 1014.37' to an existing iron pin, Killoughs and Nystroms corner in the Sam Gibson line (Nystroms 19th corner), thence with the Gibson line N 05-53-24: E 728.91' to an existing iron pin, corner of Gibson and Nystrom (Nystroms 18th corner), thence leaving the outside boundary of the Nystrom property and running the following six (6) courses and distances: N 38-37-48 E 1644.75' to an
iron pin set; S 36°05'00" E 364.05' to an iron pin set; S 63°30'48" E 118.55' to an
iron pin set; S 31°25'00" E 314.35' to an iron pin set; S 53°38'48" E 198.65'; S
31°03'00" E 268.96' to the Beginning, containing 50.00 acres, DMD.
And being a portion of the Hugh Bailey Nystrom et al property as described in a
deed from Hugh Bailey Nystrom and wife, Cecilia Grace Nystrom dated
December, 1965 and recorded in DB 186 at page 608 of the McDowell County,
North Carolina Deed Registry."

Sec. 2. In addition, McDowell County is hereby authorized to convey at
private sale with or without monetary consideration by good and sufficient deed to
Marion General Hospital, Incorporated, any and all easements of any kind
across county-owned property adjoining the property described in Section 1 of
this act.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of
March, 1981.

H. B. 379

CHAPTER 122

AN ACT TO PERMIT THE CITY OF GOLDSBORO TO CONVEY
PROPERTY NECESSARY FOR A FARMER'S MARKET.

The General Assembly of North Carolina enacts:

Section 1. The City of Goldsboro is authorized to convey property that
it owns on South Center Street in Goldsboro, with or without monetary
consideration, to the Downtown Goldsboro Association for the purpose of
providing a location for a farmer's market.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of
March, 1981.

H. B. 382

CHAPTER 123

AN ACT TO PERMIT THE CITY OF HENDERSON TO PARTICIPATE IN
THE URBAN DEVELOPMENT ACTION PROGRAM AND TO LEND OR
GRANT THE MONEYS RECEIVED FROM THE UNITED STATES
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TO
PRIVATE DEVELOPERS.

Whereas, the Congress of the United States enacted the Housing and
Community Development Act of 1977 (Public Law 95-128) authorizing the
Secretary of Housing and Urban Development to make Urban Development
Action Grants to distressed cities and towns which require increased public
assistance and private investment to alleviate physical and economic
deterioration; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 1190, Session Laws of 1979 (Second
Session, 1980) as amended by Chapter 11, Session Laws of 1981, is further
amended by adding immediately after the words "City of Clinton" the words, ",
City of Henderson".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of
March, 1981.
CHAPTER 124

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H. B. 392

CHAPTER 124

AN ACT TO AUTHORIZE COUNTY BOARDS OF ELECTIONS TO PERMIT PRECINCT OFFICIALS TO COMBINE BALLOTS IN ONE BALLOT BOX OR MORE AFTER COUNTING HAS BEEN COMPLETED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-171, as the same appears in Volume 3D of the General Statutes, is amended by adding a new sentence at the end of the first paragraph to read:

"In the alternative, the county board of elections may permit the precinct officials to put the counted ballots back in one ballot box or more to facilitate safekeeping provided the board prescribes an appropriate procedure to keep the different kinds of ballots separated in bundles or bags within the box."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of March, 1981.

S. B. 169

CHAPTER 125

AN ACT CONFIRMING STREET ASSESSMENTS IN THE CITY OF LUMBERTON.

The General Assembly of North Carolina enacts:

Section 1. Any and all acts and proceedings heretofore done and any and all steps heretofore taken by the City of Lumberton in assessing the cost of local improvements, as defined in Article XIII of the Lumberton City Charter or Article 10 of Chapter 160A of the General Statutes are hereby in all respects approved, ratified, legalized and confirmed, and any and all assessments heretofore levied for any such local improvements are hereby in all respects approved, ratified, legalized and confirmed.

Sec. 2. That any and all acts heretofore done and steps taken by the City of Lumberton in the paving of the streets of the City of Lumberton, and the assessments levied therefor, are hereby in all respects approved, ratified, legalized and confirmed.

Sec. 3. This act does not affect any civil action for individual relief if a complaint in that action is filed on or before June 1, 1981.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of March, 1981.

H. B. 348

CHAPTER 126

AN ACT TO ANNEX CONTIGUOUS STATE OWNED PROPERTY INTO THE CORPORATE LIMITS OF THE CITY OF LUMBERTON.

Whereas, the corporate limits of the City of Lumberton abuts certain State owned property; and

Whereas, the inclusion of these State owned properties into the corporate limits of the City of Lumberton will create a continuous corporate limit; Now, therefore,

The General Assembly of North Carolina enacts:
Section 1. The Corporate Limits of the City of Lumberton be, and they are hereby, extended to include therein the tracts lying contiguous thereto, more particularly described as follows:

"TRACT ONE:
Beginning at a point 130 feet west of the centerline and in the western right-of-way of Interstate 95, said point being the intersection of the western right-of-way of Interstate 95 and Meadow Branch (the existing corporate limits line), thence following the western right-of-way of Interstate 95 North 17 degrees 20 minutes East 6,780 feet to a point in said right-of-way, thence continuing along the western right-of-way line of Interstate 95 and running parallel with and 30 feet at right angles west of the centerline of the Interstate Service Road 1,685 feet to a point in said right-of-way, thence continuing with said right-of-way and in a northeasterly direction approximately 40 feet to a point, thence continuing with said right-of-way and in a north and northeasterly direction approximately 520 feet to a point (as shown on map filed with the Department of Transportation under project number 8.13978, Federal Aid Project number I-95-1 (5) 14), said point being the intersection of the western right-of-way of Interstate 95 and the southern right-of-way of U.S. 301A, thence with the southern right-of-way of U.S. 301A (the existing corporate limits line) the following courses and distances: South 30 degrees 16 minutes East 296.2 feet, South 33 degrees 10 minutes East 292.8 feet, South 35 degrees 35 minutes East 771 feet to a point in said right-of-way, said point also being the intersection of the southern right-of-way of U.S. 301A and the eastern right-of-way of Interstate 95, thence continuing with the eastern right-of-way of Interstate 95 the following courses and distances:
North 81 degrees 28 minutes West 30.7 feet; South 49 degrees 43 minutes West 312.2 feet; South 49 degrees 30 minutes West 66.44 feet; South 46 degrees 31 minutes West 46.77 feet; South 40 degrees 36 minutes West 46.77 feet; South 34 degrees 20 minutes West 46.77 feet; South 30 degrees 18 minutes West 18.25 feet; South 23 degrees 47 minutes West 83.66 feet; South 18 degrees 47 minutes West 200.15 feet; South 20 degrees 25 minutes 16 seconds West 195.62 feet; South 21 degrees 54 minutes West 399.87 feet; South 18 degrees 21 minutes West 689.6 feet; South 18 degrees 25 minutes West 1,120 feet to a point in the eastern right-of-way of Interstate 95, said point being the intersection of said right-of-way and the northwest property corner of the N.C. State Highway Patrol Station, thence with the property line of the Highway Patrol Station South 71 degrees 35 minutes East 396.0 feet to a point; thence South 18 degrees 25 minutes West 300 feet to a point, thence North 71 degrees 35 minutes West 396.0 feet to a point, said point being the intersection of the southern property line of the N.C. Highway Patrol Station and the eastern right-of-way of Interstate 95, thence continuing with the eastern right-of-way of Interstate 95 South 18 degrees 25 minutes West 4,127.20 feet to a point in said right-of-way, said point also being the intersection of the eastern right-of-way of I-95 and the centerline of Meadow Branch, thence with the run of Meadow Branch and in a westerly direction across I-95 260 feet to the beginning.

TRACT TWO:
Beginning at a stake at the intersection of a canal with the east right-of-way of U.S. 301 (50 feet from center) in the Robeson Technical College line and runs with the eastern right-of-way of U.S. 301 South 26 degrees 18 minutes East 59.61 feet to an existing iron pipe in the northwest corner of Rogers Oil
Company property, thence continuing with said right-of-way North 26 degrees 18 minutes West 300.2 feet to an existing iron pipe, thence continuing with said right-of-way North 26 degrees 40 minutes West 51.17 feet to an iron pipe in the intersection of the right-of-ways of U.S. 301 and Interstate 95, thence with the West right-of-way of Interstate 95 North 72 degrees 21 minutes West 57.35 feet to a concrete monument, thence continuing with said right-of-way the following courses and distances: South 51 degrees 11 minutes West 112.0 feet, North 49 degrees 58 minutes East 147.6 feet, North 46 degrees 09 minutes East 100.0 feet, North 39 degrees 45 minutes East 100.0 feet, North 33 degrees 16 minutes East 100.0 feet, North 27 degrees 09 minutes East 100.0 feet, North 21 degrees 19 minutes East 171.03 feet, North 20 degrees 09 minutes East 176.8 feet to an iron pipe, said iron pipe being located in the northeast corner of Norshel, Inc. property, thence leaving said right-of-way and crossing Interstate 95 North 69 degrees 51 minutes East 260 feet to a point in the East right-of-way of Interstate 95, thence following said right-of-way in a southerly direction approximately 1,064.33 feet to a point in the northeast intersection of the right-of-ways of Interstate 95 and U.S. 301, thence crossing U.S. 301 in a southerly right-of-way 100 feet to a point in the southwest right-of-way of said highway, thence with the southwest right-of-way of U.S. 301 and in a northwesterly direction approximately 728.15 feet to a point, thence crossing said U.S. 301 and in an easterly direction 100 feet to the beginning.

TRACT THREE:

Beginning at a point in the eastern right-of-way of US Highway 301-A, said point being the intersection of said right-of-way and Ivey's Branch (the existing corporate limits line), thence running with the eastern right-of-way of US 301-A North 02 degrees 58 minutes East 310 feet to a point, thence crossing US 301-A North 79 degrees 54 minutes 30 seconds West 100 feet to a point in the western right-of-way of US 301-A, thence with the western right-of-way South 02 degrees 58 minutes West 310 feet to a point at the intersection of said right-of-way and Ivey's Branch, thence with said Branch and crossing US 301-A South 79 degrees 54 minutes 30 seconds East 100 feet to the beginning.

TRACT FOUR:

Beginning at a point in the southwestern right-of-way of US Highway 301-A, said point being the intersection of the southwestern right-of-way of US 301-A and the eastern right-of-way of Interstate 95, thence with the southwestern right-of-way of US Highway 301-A South 34 degrees 41 minutes East 301.5 feet to a point, thence continuing with said right-of-way South 34 degrees 34 minutes East 1,526.8 feet to a point, thence continuing with said right-of-way and following the chord South 25 degrees 22 minutes and 56 seconds East 378.81 feet to a point, thence continuing with said right-of-way South 18 degrees 47 minutes East 60 feet to a point, said point being the northeast corner of the Atkins Short Stop property, thence continuing with the right-of-way of US Highway 301-A South 12 degrees 10 minutes East 75 feet, thence South 06 degrees 56 minutes East 100 feet, thence South 02 degrees 06 minutes East 100 feet to a point, thence crossing US 301-A North 88 degrees 18 minutes East 100 feet to a point in the northeastern right-of-way of US 301-A, thence continuing with the northeastern right-of-way of US 301-A, the following courses and distances; North 02 degrees 6 minutes West 100 feet, North 06 degrees 56 minutes West 100 feet, North 12 degrees 10 minutes West 75 feet, North 18 degrees 47 minutes West 60 feet, chord North 25 degrees 22 minutes 56 seconds
West 378.81 feet, North 34 degrees 34 minutes West 1,526.8 feet, and North 34 degrees 41 minutes West 301.5 feet to a point, thence crossing US Highway 301-A South 55 degrees 19 minutes West 100 feet to the beginning.

TRACT FIVE:
Beginning at a point in the northeast right-of-way of NC Highway 211, said point being the intersection of said right-of-way and the (1967) corporate limits of the City of Lumberton, North Carolina and said point being 50 feet at right angles northeast of the centerline of NC Highway 211, thence running parallel with and 50 feet at right angles northeast of the centerline of said highway North 35 degrees 46 minutes West about 503.15 feet to a point in said right-of-way; thence continuing with said right-of-way and 30 feet at right angles northeast of the centerline of said highway, North 37 degrees and 00 minutes West 1037.0 feet to an iron stake on the north side of NC Highway 211; thence crossing NC Highway 211 South 53 degrees 00 minutes West 60 feet to a point in the southwest right-of-way of NC Highway 211; thence with said right-of-way and 30 feet at right angles southwest of said highway South 37 degrees and 00 minutes East 1037.0 feet to a point; thence continuing with said right-of-way and 50 feet at right angles southwest of the centerline South 35 degrees 46 minutes East about 503 feet to a point in said right-of-way; said point being the intersection of the southwest right-of-way of NC Highway 211 and the present corporate limits line; thence crossing NC Highway 211 and with the present corporate limits line in a northeasterly direction 100 feet to the beginning."

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 24th day of March, 1981.

H. B. 386  CHAPTER 127

AN ACT TO ALLOW THE CITY OF KINSTON TO USE THE PROVISIONS OF CHAPTER 136 OF THE GENERAL STATUTES IN CONDEMNATION PROCEEDINGS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Kinston, as contained in Section 1 of Chapter 92, Session Laws of 1961 is amended by adding a new section to read:

"Sec. 1-4. Eminent Domain. In the exercise of the power of eminent domain granted to the City of Kinston by this Charter or any other law, public or local, the city may follow the procedures now or hereafter prescribed by said laws; provided, that in the exercise of its authority of eminent domain for the acquisition of property to be used for streets and highways, water and sewer facilities, and for all other purposes authorized by the provisions of G.S. 160A-241, the City of Kinston is hereby authorized to use the procedure and authority prescribed in Article 9 of Chapter 136 of the General Statutes of North Carolina, as now or hereafter amended; provided, further, that all reference in Article 9 of Chapter 136 of the General Statutes to 'Department of Transportation' shall be deemed to mean 'City of Kinston'; all reference to the 'Secretary of Transportation' shall be deemed to mean 'City Manager' of the City of Kinston, all references to 'Raleigh' shall be deemed to mean 'Kinston', and all other reference, directly or by implication, to the condemning authority or persons or agencies connected therewith shall be deemed to mean the City of Kinston.
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Provided, however, that the provisions of this section shall not apply with
regard to properties owned by public service corporations as defined in G.S.
160A-243(c) unless the exercise of such power of eminent domain is either
consented to by the owner of the property to be acquired by the city, or
otherwise first adjudicated after notice and a hearing that such acquisition will
not prevent or unreasonably impair the continued devotion to the public use of
such properties and the operation by such public service corporation.”

Sec. 2. Chapter 203, Session Laws of 1975 is repealed.
Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of
March, 1981.

S. B. 74  CHAPTER 128
AN ACT TO REDEFINE THE CORPORATE LIMITS OF THE CITY OF
MORGANTON.

The General Assembly of North Carolina enacts:

Section 1. The first sentence of Section 1.3 of the Morganton City
Charter, as enacted by Section 1 of Chapter 180, Session Laws of 1975, is
rewritten to read:

“The corporate limits of the City of Morganton shall be as follows, until
changed in accordance with law:

BEGINNING at the point of intersection of the centerline of the Catawba
River and the centerline of Hunting Creek and runs thence downstream
with the centerline of the Catawba River in an Easterly direction 2,750 feet more or
less to a point; thence Southerly to a point on the southern bank of the Catawba
River, said point being the northeast corner of a tract of land owned by the City
of Morganton; thence South 6° 06' West 2,543 feet more or less with the City of
Morganton’s property line to a point; thence South 82° 04' West 650 feet more or
less to the west right-of-way limit boundary line of a road leading to Causby
Stone Company; thence along the west right-of-way of said road in a
Southwesterly and Southerly direction 975 feet more or less to a point in the
City of Morganton’s property line; thence North 84° 46' East 60 feet more or
less crossing the Causby Stone Company access road to a point; thence
continuing North 84° 46' East 1,056.6 feet more or less to a point; thence South
82° 14' East 67.22 feet to a point, a northeast corner of the City of Morganton’s
property; thence with the City of Morganton’s property line South 1° 38' West
808.1 feet more or less to a point; thence South 11° 34' East 708.12 feet to a
point near a bend in Hunting Creek; thence with Hunting Creek and continuing
with the City of Morganton’s property line South 52° 35' West 84.55 feet to a
point; thence South 11° 24' East 524.09 feet to a point; thence South 10° 11'
East 220.53 feet to a point; thence South 13° 14' East 166.20 feet to a point;
thence leaving the creek and continuing with the City of Morganton’s property
line North 86° 09' West 446.42 feet to a point in the centerline of Hunting
Creek; thence South 4° 57' West 87.34 feet to a point; thence North 35° 53' East
25 feet to a point in Hunting Creek; thence with Hunting Creek upstream South
43° 30' East 139.5 feet to a point; thence North 85° 03' East 174.62 feet to a
point; thence leaving the creek South 40° 08' West 25 feet to a point near the
bank of Hunting Creek; thence continuing with the City of Morganton’s
property line South 49° 52' East 150 feet to a point; thence South 40° 08' West
503.25 feet; thence South 49° 52' East 218.77 feet to a point; thence with a curve to the right chord bearing South 44° 36' East, chord distance 228.72 feet, arc distance 229.01 feet to a point; thence South 50° 40' West 105.45 feet to a point in the northeast right-of-way of Kirksey Drive (SR 1443); thence crossing Kirksey Drive South 50° 40' West 100 feet more or less to a point in the southwest right-of-way of Kirksey Drive; thence Southeasterly with the southwestern right-of-way of Kirksey Drive 119 feet more or less to a point at which the property line of the City of Morganton intersects said right-of-way; thence with the City of Morganton's property line North 69° 30' West 1,560 feet more or less to a point; thence North 4° 19' East 315.65 feet to a point; thence North 15° 52' East 26 feet to a point; thence North 22° 02' East 100 feet to a point; thence North 16° 21' East 140.05 feet to a point; thence North 2° 24' West 42 feet to a point; thence North 29° 00' West 109.2 feet to a point; thence North 51° 25' West 573.88 feet to a point in the centerline of Goose Branch, thence following Goose Branch to the point of intersection with the corporate limits boundary line of Morganton as fixed by Chapter 104, Private Laws of 1913, as amended by Private Laws, Extra Session 1921, Chapter 91, Section 1, and being that boundary line including all the territory situated 1-1/8 miles of the center of the Courthouse, the same being hereinafter designated as a Charter boundary line, same point being 200 feet southeast from the center of Brookside Lane; thence in a Southeasterly direction with the Charter boundary line to a point 200 feet north of the right-of-way of East Union Street (US 64-70 Business); thence in an Easterly direction parallel with Union Street at a distance of 200 feet north of the right-of-way of Union Street to a point 200 feet East of the eastern right-of-way of Fleming Drive extended to the Northeast across US 64-70; thence the boundary turns South 34° 53' West and follows the extension of the eastern right-of-way and the eastern right-of-way of Fleming Drive at a distance of 200 feet to a point, said point being the northeast corner of a tract of land owned by BET Investments and on which is located Berkeley Square Shopping Center; thence South 41° 15' East 469.60 feet to the southeast corner of said tract; thence along the southern property line of the BET Investments tract South 63° 47' West 467.22 feet to the southwest corner of said tract, said point being in the eastern property line of a tract of land owned by W.C.S. Associates; thence with the eastern property line of W.C.S. Associates South 23° 21' 24" East 953.48 feet to the southeast corner of W.C.S. Associates; thence South 23° 12' 59" East 350.2 feet; thence South 88° 20' 17" East 140 feet; thence South 1° 39' 31" West 180 feet; thence South 23° 32' 18" East 395.78 feet; thence South 66° 40' 37" West 150 feet; thence South 56° 11' 48" West 40.68 feet; thence South 66° 40' 21" West 158.84 feet; thence South 23° 19' 27" East 100 feet; thence South 17° 5' 52" East 100 feet; thence South 17° 5' 52" East 174 feet; thence South 24° 2' 4" West 55 feet; thence South 54° 42' 47" East 85 feet; thence South 35° 16' 49" West 160 feet; thence South 55° 50' 42" West 42.73 feet; thence South 35° 16' 42" West 150 feet; thence South 54° 43' 10" East 128 feet; thence South 65° 57' 39" East 89.5 feet; thence South 65° 57' 43" East 296.88 feet; thence South 65° 57' 11" East 40 feet; thence South 65° 57' 43" East 100 feet; thence South 24° 2' 52" West 149.89 feet; thence South 19° 28' 48" East 85.13 feet; thence South 45° 37' 27" West 149.94 feet; thence South 44° 25' 40" East 283.97 feet; thence South 46° 36' 13" East 96.27 feet; thence South 27° 5' 42" West 211.8 feet to a point, said point being in the centerline of Bethel Road (SR 1704); thence South 27° 0' 2" West 1,375 feet to a
stone monument; thence North 48° 46' West 905 feet to a point in the center of East Prong Creek, said point being 2,075 feet more or less south of the intersection of East Prong Creek and Bethel Road; thence turning at this point to the South and following the meanders of the centerline of East Prong Creek approximately 3,750 feet more or less and crossing East Parker Road (SR 1708) to a point at the fork of East Prong Creek and an unnamed branch; thence the line turns in an Easterly direction and follows this unnamed branch depression and the Grace Hospital property line as it meanders for a distance of 1,095 feet more or less to the common property corner of the Wesley Parker Estate, Grace Hospital, and the southwest corner of Morganton Medical Associates; thence North 51° 29' West 291.96 feet; thence North 51° 52' West 197.56 feet; thence North 4° 57' West 71.44 feet to a point in the centerline of Parker Road; thence North 5° 00' West 33.54 feet more or less to an iron pipe on the bank of East Parker Road; thence continuing with the Morganton Eye Physicians property the same bearing North 5° 00' West 375.60 feet more or less to an iron pipe; thence continuing with the Morganton Eye Physicians property North 00° 11' East 207.93 feet more or less; thence with the line of Clark, McGee, and Willis South 86° 03' East 569.66 feet more or less to an iron pipe on the edge of a gravel road; thence with the gravel road South 5° 23' East 101.16 feet more or less to a steel pin; thence with the gravel road South 38° 30' West 120.60 feet more or less to a steel pin; thence with the gravel road South 10° 00' West 78.00 feet more or less to a steel pin in the centerline of East Parker Road; thence with the centerline of East Parker Road South 56° 12' West 143 feet more or less; thence leaving the centerline of East Parker Road South 52° 06' 20" East 271.91 feet to a point in the property line of Morganton Medical Associates, said point also being the northwest corner of Athletes Anonymous; thence with the northwestern property line of Athletes Anonymous North 34° 31' East 119.70 feet to a point; thence South 55° 29' East 208.58 feet to a point in the Grace Hospital property line; thence in a Northeasterly direction and following Grace Hospital's property line and a depression in the land to a point 200 feet southwest of East Parker Road; thence the line turns in a Southeasterly direction following 200 feet southwest of the right-of-way of East Parker Road for a distance of 1,050 feet; thence the line turns in a Southerly direction following a property line for a distance of 110 feet more or less to the northwest corner of a tract of land owned by Burke County; thence with the property line of Burke County South 59° 58' East 100.79 feet; thence North 43° 37' East 55.10 feet to a point; thence South 55° 06' East 220.26 feet to a stake; thence South 55° 06' East 116 feet to a stake; thence North 39° 19' East 199.12 feet; thence the same course North 39° 19' East 12.93 feet to a point in the center of East Parker Road; thence with the centerline of East Parker Road the following courses and distances: South 53° 21' East 261.97 feet; thence South 55° 54' East 250.27 feet; thence South 59° 13' East 166.70 feet to a point; thence leaving the centerline of East Parker Road South 2° 56' West 639.03 feet to a point; thence North 89° 48' East 401.43 feet more or less to a point; thence South 2° 09' West 18.64 feet to a point at which the property of Burke County intersects the northern right-of-way limit boundary line of Interstate 40; thence in a Westerly direction with the northern right-of-way limit boundary line of Interstate 40 to a point, said point being 1,340 feet more or less East of the intersecting point of the northern right-of-way of Interstate 40 and the eastern right-of-way of NC Highway 18; thence crossing Interstate 40 perpendicular to the centerline of
Interstate 40 260 feet (Survey Station 135 plus 00) to a point in the southern right-of-way of Interstate 40; thence following the southern right-of-way of Interstate 40 in a Westerly and Southwesterly direction 660 feet more or less to a point, said point being the intersection of the southern right-of-way of Interstate 40 and the eastern right-of-way of NC Highway 18; thence running in a Southwesterly direction and perpendicular to NC Highway 18 50 feet to a point in the centerline of NC Highway 18; thence in a Southeasterly direction with the centerline of NC Highway 18 40 feet more or less to a point; thence leaving the centerline of NC Highway 18 South 37° 38' West 50 feet to the northeast corner of Lutz-Yelton Oil Company, Inc.; thence running with the southern right-of-way limit boundary line of NC Highway 18 South 52° 22' East 460.00 feet more or less to a point; thence South 37° 38' West 437.80 feet more or less to a point in the center of a branch; thence with the center of the branch as follows: North 55° 13' West 47.36 feet more or less; North 83° 57' West 155.55 feet more or less, South 67° 26' West 60.13 feet more or less; North 75° 11' West 87.98 feet more or less; North 43° 49' West 60.18 feet more or less; thence leaving the said branch North 78° 31' West 390.27 feet more or less to a point on Old Mill Race; thence North 13° 32' West 93.47 feet more or less; thence North 67° 33' 34'' East 628.49 feet more or less to the southeast property corner of Lutz-Yelton Oil Company, Inc.; thence North 52° 22' West 248.92 feet to a common corner of Lutz-Yelton Oil Company, Inc. and Quality Oil Company of Statesville; thence with the southwest property line of Quality Oil Company of Statesville North 52° 22' West 136.34 feet to a point; thence with Southview Motel Corporation, Inc. property the following calls: South 49° 04' 10'' West 86.98 feet to a point; thence South 88° 16' West 58.86 feet to a point; thence North 47° 34' 20'' West 147.98 feet to a point; thence North 21° 39' 30'' West 92.38 feet to a point; thence North 42° 44' 10'' East 33.28 feet to a point, being a common corner with Lutz-Yelton Oil Company, Inc. and Southview Motel Corporation and runs thence North 74° 45' East 20.0 feet to a point being a southeastern property corner of Lutz-Yelton Oil Company, Inc.; thence with Lutz-Yelton Oil Company, Inc. North 15° 15' West 52.00 feet to their northeast property corner and being in the southern right-of-way line of Interstate 40; thence Southwesterly with the southern right-of-way line of Interstate 40 and northern property line of various owners 1,160 feet more or less to a point, being the northwestern property corner in the southern right-of-way line of Interstate 40 of Harriet L. Stroup and husband, Fred H. Stroup, and also being the northeastern property corner in the right-of-way line of Interstate 40 of Ira Dale Sedberry; thence from the southern right-of-way line of Interstate 40 and being perpendicular to the southern right-of-way of Interstate 40, Northwesterly 260 feet more or less to a point in the northern right-of-way of Interstate 40; thence in a Westerly direction following the northern right-of-way limit boundary line of Interstate 40 3,900 feet more or less to the intersecting point of the northern right-of-way limit boundary line of Interstate 40 and the western right-of-way limit boundary line of Enola Road (SR 1922); thence with the western right-of-way limit boundary line of Enola Road crossing Interstate 40 and in a Southerly direction 800 feet more or less to a point; thence Easterly crossing Enola Road (SR 1922), perpendicular to the centerline, 60 feet more or less to a point in the eastern right-of-way limit boundary line, said point also being the northwestern corner of property owned by Texaco, Inc., a Delaware corporation, and recorded in Book 231, Page 667.
Burke County Registry; thence with the property line of Texaco, Inc. South 89° 27' East 173.35 feet more or less to a point in the western property line of Charlie E. Harmon; thence continuing with Harmon and Texaco, Inc. South 00° 53' East 110.22 feet more or less to a point in the northern margin of Drury Lane; thence Westerly with the northern margin of Drury Lane and the southern property line of Texaco, Inc. North 89° 04' West 165.00 feet more or less to the eastern right-of-way limit boundary line of Enola Road (SR 1922); thence Westerly crossing Enola Road (SR 1922), perpendicular to the centerline, 60 feet more or less to a point in the western right-of-way limit boundary line of Enola Road (SR 1922); thence with the western right-of-way limit boundary line of Enola Road in a Southerly direction 2020 feet more or less to a point in the southern property line of the State of North Carolina (Western Carolina Center tract); thence with the southern line of the State of North Carolina (Western Carolina Center tract) South 84° 49' West 343.50 feet to a point; thence South 5° 11' East 117.60 feet to a point; thence South 85° 25' West 844.70 feet to a point; thence North 75° 17' West 273.50 feet to a point; thence South 81° 30' West 1,521.90 feet to a point in the centerline of Hunting Creek; thence running downstream with the centerline of Hunting Creek in a Northwesterly direction 3,095 feet more or less, said point being a property corner of the City of Morganton (cemetery tract); thence with the City of Morganton’s property line South 51° 55' West 12.25 feet to a point; thence South 35° 14' West 628.71 feet to a point; thence South 37° 46' West 437.98 feet to a point; thence North 86° 44' West 97 feet to a point; thence North 66° 44' West 267 feet to a point; thence North 49° 21' West 331.75 feet to a point; thence North 35° 09' West 239.86 feet to a point; thence South 79° 56' West 200 feet more or less to a point in the eastern right-of-way limit boundary line of Williams Road (SR 1941); thence Northerly and Northwesterly along the eastern right-of-way of Williams Road 1,000 feet more or less to the intersecting point of the southern right-of-way limit boundary line of Interstate 40 and the eastern right-of-way of Williams Road; thence North 65° 36' East 238.53 feet with the right-of-way of Interstate 40 to a point; thence Northerly crossing Interstate 40 perpendicular to the centerline of Interstate 40 310 feet more or less to a point in the northern right-of-way of Interstate 40; thence in a Westerly direction following the northern right-of-way of Interstate 40 3,500 feet more or less to a point in the centerline of Henredon Branch; thence the boundary turns Northwest and follows the meanders of the centerline of Henredon Branch downstream 4,950 feet more or less to the centerline of the Southern Railway; thence in a Westerly direction following the centerline of Southern Railway 3,300 feet more or less to the center of Silver Creek; thence in a Westerly and Southerly direction following the meanders of the centerline of Big Silver Creek for a distance of 4,885 feet more or less to a point in the center of the Duke Power Company transmission power line right-of-way; thence along the center of the power line right-of-way South 70° 18' East 746.55 feet; thence South 10° 35' East 193.55 feet; thence South 49° 16' East 229.07 feet; thence South 13° 25' East 155.19 feet; thence South 56° 35' East 689.53 feet to a point on the western edge of a private road; thence following the western edge of the private road South 15° 30' East 385.19 feet; thence South 81° 18' West 221.67 feet; thence South 15° 30' East 221.9 feet; thence North 88° 56' East 250 feet to a point on the western edge of a private road; thence following the western edge of the private road South 19° 10' East 405 feet to a
point on the northern edge of the Interstate 40 right-of-way; thence in a Westerly direction along the northern edge of the Interstate 40 right-of-way as follows: South 87° 40' West 100 feet; North 81° 27' West 100 feet; North 70° 25' West 100 feet; North 63° 30' West 100 feet; North 56° 45' West 100 feet; North 60° 25' West 100 feet; North 70° 07' West 100 feet; North 80° 37' West 100 feet; South 86° 50' West 45 feet to a point; thence leaving the right-of-way of Interstate 40 North 2° 55' East 157 feet to a point; thence South 88° 14' West 432 feet to a point; thence North 2° 55' East 50 feet to a point; thence South 89° 22' West 241.74 feet to a point; thence South 2° 55' West 75 feet to a point; thence South 26° 45' East 172.79 feet to a point in the northern edge of Interstate 40 right-of-way; thence along the northern edge of Interstate 40 right-of-way South 87° 05' West 69.05 feet; thence leaving the right-of-way of Interstate 40 North 26° 45' West 168.03 feet; thence North 1° 45' West 189.90 feet; thence South 88° 22' West 967.4 feet; thence South 1° 38' West 371.39 feet to a point on the northern edge of Interstate 40 right-of-way; thence following the northern edge of the Interstate right-of-way in a Westerly direction 8,400 feet more or less to a point in the northern right-of-way limit boundary line of Interstate 40, said point also being the southwestern property corner of Kirksey & Company; thence North 23° 00' West 1,100 feet more or less to a corner, said corner being the common property corner of the Kirksey & Company tract and a tract of land owned by Robert Kirksey; said corner also being in the eastern line of the J. Earl Abee tract; thence with the Robert Kirksey and J. Earl Abee common property line North 15° 34' 30" West 312.33 feet to a point; thence North 70° 00' 35" West 883.02 feet to a point, said point being the northwestern property corner of the J. Earl Abee tract and a corner in the eastern property line of James Edward Proctor; thence North 70° 00' 35" West 37 feet to a corner, said corner being the southwestern property corner of the Robert Kirksey tract; thence with the Robert Kirksey and James Edward Proctor tracts North 3° 14' 45" West 83.79 feet; thence North 17° 19' 42" East 200.74 feet; thence North 24° 34' 40" East 115.88 feet; thence North 42° 13'02" East 71.87 feet; thence North 78° 00' East 115 feet to a point, said point being located in the center of Little Silver Creek, said point also being a common property corner of the Thomas Hefner, Robert Kirksey, and James E. Proctor tracts; thence with the meanders of Little Silver Creek in a Westerly direction 160 feet; thence South 48° 00' West 274 feet to a point in Little Silver Creek, said point being the southwestern property corner of the Thomas D. Hefner tract; thence with the common property line of the Dellwood Heights Subdivision and James Edward Proctor South 13° 17' 30" West 15 feet to a point in Little Silver Creek; thence with the center of Little Silver Creek South 18° 02' West 97.12 feet to the intersection of a branch and Little Silver Creek; thence still with Little Silver Creek South 20° 35' West 105.51 feet to a point in Little Silver Creek; thence South 13° 15' East 58 feet to a point in Little Silver Creek; thence South 87° 30' West 18 feet; thence South 18° 30' West 34 feet; thence South 10° 15' East 60 feet to a point in Little Silver Creek; thence with the common property line of Joseph H. Black and James Proctor South 7° 33' West 74 feet to a point; thence meandering in a Southerly direction with the centerline of Little Silver Creek the following courses and distances: South 30° 21' West 3.07 feet more or less, North 80° 33' West 77 feet more or less, South 24° 33' East 62 feet more or less, South 46° 12' West 42 feet more or less, North 74° 55' West 27 feet more or less, South 32° 34' East 41 feet more or less, South
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5° 06' West 66 feet more or less, South 43° 00' East 38 feet more or less, South 32° 10' West 36 feet more or less, South 46° 17' East 42 feet more or less, South 5° 12' East 62 feet more or less, South 38° 18' East 29 feet more or less, South 23° 33' East 42 feet more or less, South 31° 15' West 20 feet more or less, South 18° 02' East 59 feet more or less, South 30° 25' West 72 feet more or less, South 71° 36' West 73 feet more or less, South 48° 28' West 58 feet more or less to the northeastern right-of-way limit boundary line of Conley Road (SR 1168); thence with the centerline of Little Silver Creek and crossing Conley Road (SR 1168) in a Southwesterly direction 65 feet more or less to the southwestern right-of-way limit boundary line of Conley Road (SR 1168); thence in a Westerly and Northwesterly direction with the centerline of Little Silver Creek the following courses and distances: South 89° 58' West 243.35 feet more or less, South 56° 19' West 93.82 feet more or less, South 65° 06' West 37.45 feet more or less, South 83° 30' West 116 feet more or less, South 57° 20' West 136.94 feet more or less, South 52° 29' West 38.76 feet more or less, North 83° 21' West 68.65 feet more or less, South 78° 48' West 100.47 feet more or less, South 69° 43' West 103.37 feet more or less, North 79° 20' West 104.18 feet more or less, South 77° 58' West 55.72 feet more or less, North 50° 27' West 63.29 feet more or less, North 50° 35' West 75.39 feet more or less, North 73° 28' West 96.89 feet more or less, North 39° 13' West 215 feet more or less to a point, said point being in the centerline of Little Silver Creek and the west right-of-way limit boundary line of a 60-foot platted street; thence Northerly with the right-of-way line of said street 38 feet more or less to the southwest corner of Jerry R. Henson, said corner also being located in the eastern property line of Summie Sheppard; thence North 1° 30' East 143.13 feet with the Henson and Sheppard common property line to the southwest corner of the Blaine Causby property; thence North 8° 57' East 202.39 feet more or less with the west property line of Blaine Causby to a point; thence continuing with the west property line of Blaine Causby North 12° 20' East 106.29 feet more or less to the northwest property corner of Blaine Causby and the southwest property corner of Johnson; thence Northerly 200 feet more or less with the west property line of Johnson to a point in the eastern right-of-way limit boundary line of Causby Road (SR 1147); thence Northerly 130 feet more or less with the eastern right-of-way limit boundary line of Causby Road (SR 1147) to a point, said point being the intersecting point of the eastern right-of-way limit boundary line of Causby Road (SR 1147) and the southern right-of-way limit boundary line of SR 1179; thence with the southern and the western right-of-way limit boundary line of SR 1179 and the Johnson property line the following courses and distances: South 83° 57' East 81.49 feet more or less, South 85° 20' East 142 feet more or less; thence with a curve to the right, chord bearing South 86° 12' East, chord distance 30.38 feet more or less, arc distance 30.38 feet more or less, said point being a point in the north property line of Lot No. 29 of the J.H. Giles Subdivision as recorded in Plat Book 4, Page 139 at the Burke Registry; thence crossing an intersecting street in an Easterly direction for a distance of 112 feet more or less to a point, said point being a northwest corner of Lot No. 28 of said Subdivision; thence with a curve to the left chord bearing North 81° 51' East, chord distance 157.61 feet, arc distance 157.67 feet; thence chord bearing North 75° 07' East, chord distance 73.15 feet, arc distance 73.18 feet to a point, said point being a northeast corner of Lot No. 15 and in the southern right-of-way line of a 60-foot wide platted street in the J.H. Giles Subdivision; thence
continuing North 73° 00' East 85 feet more or less crossing Conley Road (SR 1168) to a point in the eastern right-of-way limit boundary line of Conley Road (SR 1168) and the western property line of George Tevepaugh; thence Northwesterly with the east right-of-way limit boundary line of Conley Road (SR 1168) 274 feet more or less to the intersecting point of the east right-of-way limit boundary line of Conley Road (SR 1168) and the northwest right-of-way limit boundary line of South Meadow Drive; thence with the northwest right-of-way of South Meadow Drive in a Northeasterly direction 310 feet more or less to a branch; thence in a Northwesterly direction with the meanders of the branch 750 feet more or less to a point in the southern right-of-way limit boundary line of Dellwood Drive; thence along the southern right-of-way limit boundary line of Dellwood Drive in a Westerly direction 130 feet more or less to the Glen Alpine Town limits; thence along the Glen Alpine Town limits in a Northeasterly direction 380 feet more or less to a point in the eastern right-of-way limit boundary line of North Meadow Drive, said point also being the northwestern property corner of Lot No. 1 as shown on a plat of Dellwood Heights Subdivision recorded May of 1968 and recorded in Book 5, Page 62 of the Burke County Registry; thence along the northern property line of Lot Nos. 1 through 9 of the Dellwood Heights Subdivision development North 88° 56' East 1,040.34 feet to a point; thence with the common property line of the Dellwood Heights Subdivision development and the N. O. Pitts Estate property South 5° 01' West 47 feet to a point; thence South 5° 01' West 7.77 feet to a concrete monument; thence South 5° 40' West 478.81 feet to a concrete monument; thence South 86° 09' East 102.50 feet to a point, said point being the northwestern property corner of the Thomas D. Hefner tract; thence along the common property line of the N. O. Pitts Estate and the Thomas D. Hefner tract South 86° 09' East 1,047.79 feet to a point, said point being the northeastern property corner of Thomas D. Hefner tract; thence with the Thomas D. Hefner line South 8° 00' West 363 feet to a point in Little Silver Creek, said point being in the northern property line of the Robert Kirksey tract; thence with the centerline of Little Silver Creek and the Robert Kirksey property line the following bearings and distances: South 76° 00' East 110 feet, South 16° 00' East 34 feet, South 47° 00' East 65 feet, South 17° 00' East 100 feet, South 52° 00' West 50 feet, South 65° 00' East 40 feet, South 43° 00' East 130 feet, South 21° 00' West 47 feet, South 60° 00' East 72 feet, South 85° 00' East 60 feet, South 22° 00' East 105 feet, South 30° 00' East 186 feet to a point in Little Silver Creek, said point being the easternmost property corner of the Robert Kirksey tract; thence with the Kirksey & Company tract North 45° 00' East 330 feet to a point; thence in a Northerly direction 260 feet to a point, said point being the northwestern property corner of Kirksey & Company and also being the southwestern property corner of the Cecil L. Baker property; thence with the common property lines of Kirksey & Company and Cecil L. Baker in an Easterly direction 480 feet more or less to a point, said point being the southwestern property corner of the Larry N. Keller property; thence North 3° 49' 44" East 274.33 feet with the western property line of Larry N. Keller to a point, said point being the southwest property corner of Flavia B. Hildebrand; thence North 3° 00' East 231 feet more or less to a point, said point being the southwest corner of Larry N. Keller; thence North 3° 49' 44" East 31.83 feet to a point; thence North 4° 44' East 144.98 feet to a point; thence in a West Northwesterly direction with the common boundary line of Charles A.
Williams and Cecil Baker for a distance of 135 feet more or less to a point, said point being the common corner of Charles A. Williams, Thomas Yount, and Cecil Baker; thence with Thomas Yount's property lines South 55° 43' West 63.69 feet; North 87° 57' West 88.07 feet; North 23° 39' East 49 feet; North 87° 57' West 224.29 feet; thence North 3° 13' West 282.21 feet to a point, said point being the southeast corner of J. Harvey Graham; thence North 74° West 185 feet to the Graham southwest property corner; thence Westerly with the south property line of Peter Mull 130 feet more or less to the southeast corner of a tract of land of Paul Butler; thence with the Paul Butler south property line North 80° West 155 feet to the southwest corner of Paul A. Butler; thence continuing Westerly with a new line through the Robert Lee Butler property 105 feet more or less to the northeast corner of Lot No. 26 of the Pitts Subdivision, said point also being a corner of the Robert Lee Butler tract; thence continuing Westerly with the Robert Lee Butler property line 97 feet more or less to the southeast corner of a tract of land owned by Jerry D. Butler; thence North 82° West with the south property line of Jerry D. Butler and an extension thereof 260 feet more or less to a point in the centerline of a right-of-way platted and recorded at Burke Registry July 2, 1938 of the N. O. Pitts property; thence Northerly with the centerline of said street 390 feet more or less to a point; thence North 87° 31' West 30 feet to the southeast corner of the Malcolm C. Horton property; thence continuing North 87° 31' West with the southern property line of Malcolm C. Horton, Bermon J. Mull, and Walter W. Franklin, a total distance of 470 feet more or less to the southwest property corner of Walter W. Franklin; thence with the east margin of a 30-foot-wide platted right-of-way and the west property line of Walter W. Franklin North 3° 30' East 300 feet to a point in the southern right-of-way limit boundary line of US Highway 70; thence continuing North 3° 30' East crossing US Highway 70 150 feet more or less to the centerline of the Southern Railroad; thence Easterly with the centerline of Southern Railroad 912 feet more or less to a southwest corner of the Edward Crisp Heirs property; thence leaving the centerline of the railroad in a Northerly direction along the Crisp property line 270 feet more or less to a point; thence with the Crisp line in a Westerly direction 245 feet more or less to a point; thence with the Crisp line in a Northerly direction 150 feet more or less to a point; thence with the Crisp line due East for a distance of 1,080 feet more or less to a point; thence with the Crisp line in a Southerly direction 200 feet more or less to a point in the centerline of Southern Railroad, said point also being the northwest corner of Riley Fullwood property; thence Easterly with the centerline of Southern Railroad to the point at which the centerline of Southern Railroad intersects a line parallel to and 200 feet North of the northern right-of-way limit boundary line of US Highway 70; thence Easterly following and parallel to the northern right-of-way of US Highway 70 at a distance of 200 feet, to the point at which said line intersects the western property line of Debra Lynn Patton; thence with the western property line North 6° 42' East to the Patton northwest corner; thence with the northern property line of Debra L. Patton South 86° 30' East 346.95 feet to the northwest corner of the James Caldwell property; thence with the northern property line of James Caldwell South 87° 00' East 133.6 feet more or less to Caldwell's northeast corner; thence South 10° 30' East with Caldwell's eastern property line to a point in the northern right-of-way of US Highway 70; thence Easterly with the northern right-of-way of US Highway 70.
142 feet more or less to the southeastern property corner of George G. Nelson; hence North with Nelson's east property line to the Nelson northeast corner; hence continuing North with Albert Prestwood property line 15 feet more or less to a point; hence North 68° 14' West with the Prestwood line to the point at which this line intersects with a line parallel to and 200 feet north of the northern right-of-way of US Highway 70; hence Easterly with the line parallel to and 200 feet north of the northern right-of-way of US Highway 70 to a point at which this line intersects a line of bearing North 12° 40' West and which also intersects the centerline of US Highway 70 at a point 1,400 feet more or less West of the centerline of Elm Street; hence with the line North 12° 40' West 770 feet more or less to a point; hence following and parallel to the center of US Highway 70 at a distance of 1,000 feet North 78° 15' East 1,387 feet to a point 200 feet west of the center of Elm Street; hence North 0° 30' West 1,025 feet to a point on the eastern bank of the Catawba River; hence North 75° 45' West 80 feet to a point in the center of the Catawba River; hence with the meanders of the centerline of the Catawba River as follows: North 5° East 180 feet, hence North 6° 55' West 400 feet, hence North 2° 15' East 313 feet, in all 893 feet to a point in the center of the Catawba River; hence leaving the Catawba River South 89° 10' East 630 feet to a point; hence North 88° 40' East 1,953 feet to a point 200 feet East of Glendale Street; hence due South 786 feet following and parallel with the center of Glendale Street at a distance of 200 feet; hence South 89° 20' East 505 feet to a point; hence South 0° 35' East 287 feet to a point; hence North 77° 35' East 220 feet to a point; hence South 11° 20' East 125 feet to a point; hence North 74° 5' East 395 feet to a point; hence North 14° 15' West 200 feet to a point; hence North 74° 30' East 280 feet to a point in the center of an unnamed branch; hence with the center of the said unnamed branch as follows: North 26° 30' East 104 feet, hence North 35° 55' East 119 feet, hence North 43° 10' East 126 feet, hence North 32° 05' East 77 feet, hence North 0° 15' East 258 feet, in all 684 feet to a point in the center of the intersection of said unnamed branch and Catawba River; hence downstream with the meanders of the centerline of the Catawba River 2,750 feet more or less to a point, said point being the southwest corner of the tract of land owned by the Burke County Public School Board of Education and the southeast property corner of Harry W. Wall; hence with the common property line of Harry W. Wall and the Burke County Public School Board of Education North 3° 09' East 1,343.65 feet more or less to a monument in the southeastern right-of-way limit boundary line of Independence Boulevard (SR 1304); hence crossing Independence Boulevard (SR 1304) North 3° 09' East 440 feet more or less to a monument in the northwestern right-of-way limit boundary line of Independence Boulevard (SR 1304); hence with the common property lines of Harry W. Wall, Earl Harbison, and the Burke County Public School Board of Education North 3° 09' East 651 feet more or less to a point in the southern right-of-way limit boundary line of NC Highway 126 (Yellow Mountain Road); hence with the southern right-of-way limit boundary line of NC Highway 126 (Yellow Mountain Road) in an Easterly direction 240 feet more or less to a right-of-way limit boundary line monument, said monument marking the intersection point of the southern right-of-way limit boundary line of NC Highway 126 (Yellow Mountain Road) and the northwestern right-of-way limit boundary line of Independence Boulevard (SR 1304); hence Easterly crossing Independence Boulevard (SR 1304) 280 feet more or less to a monument in the
southeastern right-of-way limit boundary line of NC Highway 126 (Yellow Mountain Road); thence Northeasterly with the southeastern right-of-way limit boundary line of NC Highway 126 (Yellow Mountain Road) 1,800 feet more or less to a point, said point being the northern property corner of the Burke County Public School Board of Education; thence with the common property line of C. W. Harbison and the Burke County Public School Board of Education South 20° 00' 00" East 3,411.57 feet more or less to a point in the centerline of the Catawba River; thence downstream with the meanders of the Catawba River 525 feet more or less to a point, said point being Southwesterly 3,197 feet from the intersection point of the centerline of NC Highway 181 and the centerline of the Catawba River; thence following along the west property line of Dana Corporation North 22° 16' 30" West 100 feet to an iron pipe; thence North 22° 16' 39" West 1,297.16 feet to an iron pipe, said iron pipe being a new corner of Dana Corporation and the southwest corner of a tract of land owned by M. Lowenstein & Sons, Inc.; thence following the west property line of M. Lowenstein & Sons, Inc. North 23° West 1,412.84 feet to a point; thence North 27° East 175 feet more or less to the northeast property corner of M. Lowenstein & Sons, Inc., said point being located in the southwest right-of-way limit boundary line of SR 1295 (Wamsutta Mill Road); thence following the southwest right-of-way line of SR 1295 Northwesterly 610 feet more or less to a monument marking the east end of a sight distance connecting the southwest right-of-way limit boundary line of SR 1295 and the southeast right-of-way limit boundary line of NC Highway 126 (Yellow Mountain Road); thence along the sight distance 50 feet more or less to a monument marking the west end of said sight distance; thence crossing NC Highway 126 Northwesterly perpendicular to the centerline 115 feet more or less to a point in the northwest right-of-way limit boundary line of NC Highway 126; thence continuing on the same course Northwesterly and perpendicular to NC Highway 126 to a point 130 feet northwest of the northwest right-of-way of NC Highway 126; thence Northeasterly approximately parallel to and approximately 130 feet Northwest of the northwest right-of-way of NC Highway 126 for a distance of 550 feet more or less to the southeast corner of a parcel of land leased to Burke County Rescue Squad from Crescent Land and Timber Corporation; thence along the southern lease line of Burke County Rescue Squad North 73° West 140 feet to the southeast corner of a parcel of land leased to Cecil Houston from Crescent Land and Timber Corporation; thence along the southern lease line of Cecil Houston North 71° West 130 feet to the southeast corner of a parcel of land leased to H. M. Oliver from Crescent Land and Timber Corporation; thence along the southern lease line of H. M. Oliver North 70° 17' West 143.2 feet to a point; thence North 52° 30' West 300 feet more or less to the southeast corner of a parcel of land leased to Charlie P. Abernathy from Crescent Land and Timber Corporation; thence along the southern lease line of Charlie P. Abernathy North 52° 30' West 145.49 feet to the southeast corner of a tract of land leased to Nell W. Barron from Crescent Land and Timber Corporation; thence along the southern lease line of Nell W. Barron North 53° 00' West 259.46 feet to an iron pipe; thence along the northwest lease line of Nell W. Barron North 30° 56' East 258.67 feet to an iron pipe in the southern right-of-way limit boundary line of NC Highway 181; thence following the southern right-of-way limit boundary line of NC Highway 181.
181 North 62° West 393 feet more or less to a point, said point being the point at which the western right-of-way limit boundary line of SR 1414 extended Southerly would intersect the southern right-of-way limit boundary line of NC Highway 181; thence crossing NC Highway 181 approximately perpendicular to the centerline of NC Highway 181 and with the SR 1414 west right-of-way limit boundary line extension 80 feet more or less to the intersecting point of the west right-of-way limit boundary line of SR 1414 and the northern right-of-way limit boundary line of NC Highway 181; thence with the west right-of-way limit boundary line of SR 1414 Northerly with the curvature of the road 450 feet more or less to a point; thence crossing SR 1414 60 feet perpendicular to the centerline of SR 1414 to a point in the eastern right-of-way limit boundary line of SR 1414, said point being a stake in the west property line of Skyland Textile Co., Inc.; thence with Skyland Textile Co., Inc. west property line North 0° 59' East 391.84 feet to the northwest property corner of Skyland Textile Co., Inc.; thence with the north property line of Skyland Textile Co., Inc. South 63° East 919 feet more or less to a point in the west right-of-way limit boundary line of SR 1419 (Bost Road); thence Northerly with the west right-of-way limit boundary line of SR 1419 2,040 feet more or less to a point; thence crossing SR 1419 North 85° 43' East 60 feet more or less to a point in the east right-of-way limit boundary line of SR 1419, said point being the northwest corner of a tract of land leased to Tartan Links, Inc. from Crescent Land and Timber Corporation; thence with the Tartan Links, Inc. lease line North 85° 43' East 224.32 feet to an iron pipe; thence South 7° 15' East 600 feet to an iron pipe; thence South 84° 00' East 337 feet to a point; thence South 81° 15' East 1,354.4 feet to an iron pipe, said pipe being the northeast corner of the tract of land leased to Tartan Links, Inc. from Crescent Land and Timber Corporation; thence South 81° 15' East 250 feet more or less to a point, said point being in the centerline of the Catawba River; thence downstream with the meanders of the centerline of the Catawba River 19,000 feet more or less to the point of BEGINNING.

Excepting from the above the following described tracts of land:

BEGINNING at a point in the southeastern right-of-way limit boundary line of SR 1177 (Dixie Boulevard), said point being in a Northeasterly direction 640 feet more or less from the intersection of the northeastern right-of-way limit boundary line of SR 1150 with the southeastern right-of-way limit boundary line of SR 1177; thence in a Northeasterly direction 500 feet more or less with the southeastern right-of-way limit boundary line of SR 1177 to a point; thence South 47° 48' 30" East 88 feet more or less to a point in a creek; thence with the creek the following calls and distances: South 28° 45' West 165 feet more or less, South 0° 35' East 146 feet more or less, South 57° 45' West 130 feet more or less, South 89° 00' West 130 feet more or less, South 56° 47' West 72.64 feet more or less to a point; thence leaving the creek North 31° 22' 20" West 207 feet more or less to the point of BEGINNING and containing 2.5 acres more or less as described in Deed Book 448, Page 207, Burke Registry.

BEGINNING at the intersecting point of the northeastern right-of-way limit boundary line of SR 1150 (Reep Road) with the southeastern right-of-way limit boundary line of SR 1177 (Dixie Boulevard) and runs thence in a Northeasterly direction 204 feet more or less with the southeastern right-of-way limit boundary line of SR 1177 to a point; thence South 46° 45' East 129.61 feet more or less to a point; thence South 43° 22' 40" East 478.90 feet more or less to a
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point, said point being located in Little Silver Creek; thence with Little Silver Creek the following calls and distances: South 12° 27' West 82.62 feet more or less, South 15° 10' West 97.0 feet more or less, South 46° 54' West 48 feet more or less to a point, said point being in the northeastern right-of-way limit boundary line of SR 1150; thence in a Northwesterly direction 675 feet more or less with the northeastern right-of-way limit boundary line of SR 1150 to the point of BEGINNING and containing 3.0 acres more or less as described in Deed Book 565, Page 610, Burke Registry."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of March, 1981.

S. B. 161  CHAPTER 129

AN ACT TO ALLOW THE TOWN OF FAIRMONT TO COLLECT ON MOTOR VEHICLES A TAX OF NOT MORE THAN FIVE DOLLARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-97(a) is amended by adding immediately after the words "Town of Stoneville" each time they appear, the words ", the Town of Fairmont and the Town of Raeford."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of March, 1981.

S. B. 82  CHAPTER 130

AN ACT TO DELETE REFERENCES TO MUNICIPAL HEALTH DEPARTMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-3 as it appears in the 1974 Replacement Volume 3B of the General Statutes is amended by:

(1) substituting the word "and" for the comma in line 1 of subsection (e);
(2) deleting the words "city board of health, and city-county board of health" in line 2 of subsection (e);
(3) substituting the word "and" for the comma in line 1 of subsection (f);
(4) deleting the words "city health department, and city-county health department" in lines 2 and 3 of subsection (f); and
(5) deleting the words "city health officer, city-county health officer" from subsection (g).

Sec. 2. G.S. 130-17 as it now appears in the 1974 Replacement Volume 3B of the General Statutes is amended by:

(1) deleting the word "city," in line 3 of subsection (a);
(2) deleting the word "city," in line 6 of subsection (a); and
(3) deleting the words "(other than a city board of health)" in line 3 of subsection (c).

Sec. 3. Article 3A of Chapter 130 of the General Statutes is repealed.

Sec. 4. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 25th day of March, 1981.
S. B. 90

CHAPTER 131

AN ACT TO DELETE MENTION OF "PUBLICLY SOLICITING ALMS" IN CONNECTION WITH ELIGIBILITY FOR AID TO THE NEEDY BLIND.

The General Assembly of North Carolina enacts:

Section 1. G.S. 111-15(5) is amended by deleting the following words in line 1: "are not publicly soliciting alms in any part of the State, and who".

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 25th day of March, 1981.

H. B. 272

CHAPTER 132

AN ACT TO AMEND THE CHARTER OF THE CITY OF GREENSBORO, AS REVISED AND REORGANIZED BY CHAPTER 1137 OF THE SESSION LAWS OF 1959, AS AMENDED, BY ADDING PROVISIONS RELATING TO PUBLIC ACCOMMODATIONS, FAIR HOUSING AND EQUAL EMPLOYMENT.

The General Assembly of North Carolina enacts:

Section 1. Chapter III, Subchapter D of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137 of the Session Laws of 1959, is amended by adding new sections following Section 3.61 as follows:

"Sec. 3.62. Public accommodations. The city council shall have the power to adopt ordinances to insure that all public accommodations in the City of Greensboro shall be equally available to all persons without regard to race, color, religion or national origin. Such ordinances may prohibit discrimination by anyone who denies any individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations of a place of public accommodation. A place of public accommodation is defined to mean a business, accommodation, refreshment, entertainment, recreation or transportation facility of any kind whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold or otherwise made available to the public.

"Sec. 3.63. Equal employment. The city council shall have the power to adopt ordinances prohibiting acts of employment discrimination based on race, religion, color, creed, national origin or sex, against all persons otherwise qualified, except where specific sex requirements constitute bona fide occupational qualifications necessary to proper and efficient administration. Acts of employment discrimination prohibited by ordinances adopted pursuant to this section shall be the same acts prohibited by Title VII of the Civil Rights Act of 1964, as amended.

"Sec. 3.64. Fair housing. The city council shall have the power to adopt ordinances to insure that all housing opportunities in the City of Greensboro shall be equally available to all persons without regard to race, color, religion, sex or national origin. Such ordinances may regulate or prohibit any act, practice, activity or procedures related directly or indirectly to the sale or rental of public or private housing which affects or may tend to affect the availability or desirability of housing on an equal basis to all persons. However, in accordance with Title VIII on Fair Housing, the following shall be exempt from coverage:
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(a) The rental of a housing accommodation in a building containing accommodations for not more than four families living independently of each other if the lessor or a member of his family resides in one of those accommodations.

(b) The rental of a room or rooms in a housing accommodation by an individual if he or a member of his family resides there.

(c) With respect to discrimination based on sex, the rental or leasing of housing accommodations in single-sex dormitory property.

(d) With respect to discrimination based on religion, housing accommodations owned or operated for other than a commercial purpose by a religious organization, association or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society whereby the sale, rental or occupancy of such housing accommodations is limited or preference is given to persons of the same religion, unless membership in such religion is restricted because of race, color, national origin or sex.

"Sec. 3.65. Remedies. Any ordinances adopted by the city council pursuant to Sections 3.62, 3.63 and 3.64 may, in addition to any other remedies permitted by law, provide that any persons aggrieved may apply to the Superior General Court of Justice for appropriate civil relief including any legal and equitable remedies. Violation of an ordinance adopted pursuant to this act does not constitute a misdemeanor under G.S. 14-4."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of March, 1981.

H. B. 225  CHAPTER 133

AN ACT TO ALLOW THE CITY OF RIVER BEND PLANTATION TO LEVY AD VALOREM TAXES FOR THE REMAINDER OF THE 1980-81 FISCAL YEAR.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of River Bend Plantation, as approved by the Municipal Board of Control and filed with the Secretary of State on January 14, 1981, is amended by adding a new section to read:

"Section V. Budget for Fiscal Year 1980-81. The City of River Bend Plantation is authorized to adopt a budget and levy property taxes for the period from January 14, 1981, through June 30, 1981. In adopting the budget and levying taxes for fiscal year 1980-81, the city council need not follow the schedule of action set forth in the Local Government Budget and Fiscal Control Act, but shall observe the sequence of action in the spirit of the act insofar as is practical. Property taxes levied by the City of River Bend Plantation for fiscal year 1980-81 shall be prorated in accordance with G.S. 160A-58.10 as if the city were territory annexed on January 14, 1981, except that the prorated taxes shall be due and payable on the first day of the calendar month next succeeding the ninetieth day after adoption of the budget. If taxes are not paid by such due date, there shall be added to the taxes interest at the rate of two percent (2%). On or after the first day of the next month, there shall be added to the taxes, in addition to the two percent (2%), interest at the rate of three-fourths of one
percent (3/4%) per month or fraction thereof until the taxes plus interest have been paid."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of March, 1981.

H. B. 400

CHAPTER 134

AN ACT TO REQUIRE CONSENT OF THE BLADEN COUNTY BOARD OF COMMISSIONERS BEFORE LAND IN THAT COUNTY MAY BE CONDEMNED OR ACQUIRED BY A UNIT OF LOCAL GOVERNMENT OUTSIDE THE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of G.S. 153A-159, Article 11 of Chapter 160A of the General Statutes, G.S. 130-130, Chapter 40 of the General Statutes, or any other general law or local act conferring the power of eminent domain, before final judgment may be entered in any action of condemnation initiated (or in the case of Article 11 of Chapter 160A, before a final condemnation resolution is adopted) by a county, city or town, special district, or other unit of local government which is located wholly or primarily outside Bladen County, whereby the condemnor seeks to acquire property located in Bladen County, the condemnor shall furnish proof that the Bladen County Board of Commissioners has consented to the taking.

Sec. 2. Notwithstanding the provisions of G.S. 153A-158, Chapter 160A of the General Statutes, Article 12 of Chapter 130 of the General Statutes, or any other general law or local act conferring the power to acquire real property, before any county, city or town, special district, or other unit of local government which is located wholly or primarily outside Bladen County acquires any property located in Bladen County by exchange, purchase or lease, it must have the approval of the Bladen County Board of Commissioners.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of March, 1981.

H. B. 414

CHAPTER 135

AN ACT TO MAKE GREEK INDEPENDENCE DAY A STATE HOLIDAY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 103-4 is amended by adding a new subdivision to read:

"(3a) Greek Independence Day, March 25."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of March, 1981.
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H. B. 328  CHAPTER 136
AN ACT TO AUTHORIZE THE BOARD OF COUNTY COMMISSIONERS
OF MECKLENBURG COUNTY TO APPOINT SPECIAL PEACE
OFFICERS WITH LIMITED JURISDICTION.

The General Assembly of North Carolina enacts:

Section 1. The Board of County Commissioners of Mecklenburg County
may appoint county employees as special peace officers who, after taking the
oath of office prescribed for peace officers, shall have the same powers as other
law enforcement officers. The Board of County Commissioners shall state in
the appointment the portion of the property owned, possessed or otherwise
controlled by Mecklenburg County in which that officer shall have territorial
jurisdiction, and the officer shall have jurisdiction only in that area.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of
March, 1981.

H. B. 343  CHAPTER 137
AN ACT EXEMPTING FROM THE PROVISION OF ARTICLE 12,
CHAPTER 160A, OF THE GENERAL STATUTES OF NORTH
CAROLINA, CERTAIN COUNTIES AS TO LEASES OR SALES OF REAL
ESTATE OWNED, OR HEREAFTER OWNED BY IT, AS AN
INDUSTRIAL PARK, OR FOR THE PURPOSES OF INDUSTRIAL
DEVELOPMENT.

The General Assembly of North Carolina enacts:

Section 1. A county is exempt from all provisions, restrictions and
limitations as to methods and procedures required to effectuate leases or sales of
real estate provided for in Article 12, Chapter 160A, of the General Statutes of
North Carolina, in connection with any lease or sale of real estate made by it,
both as to real estate now owned or hereafter owned by it, as an Industrial Park,
or for industrial development.

Sec. 2. This act is effective with respect to a sale or lease only if such
sale or lease is given prior approval by a unanimous resolution of the Board of
County Commissioners authorizing said lease or sale for the explicit purpose of
industrial development with the stipulation that such industry employ a
minimum of five persons, and the amount of acreage be determined by the
essential requirements of a particular type of industry. Such lease or sale may be
for cash or with deferred payments secured by a Purchase Money Deed of
Trust. It is the intent hereof that leases and sales may be negotiated and
consummated without further formality other than the required unanimous
resolution by the County Board of Commissioners all on terms as negotiated.

Sec. 3. This act applies only to the following counties: Haywood,
Jackson and Swain.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of
March, 1981.

98
H. B. 388

CHAPTER 138
AN ACT TO REQUIRE CHEROKEE COUNTY TO COMPLY WITH THE STANDARD STATE REQUIREMENTS FOR RECORDING AND FILING LAND MAPS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 47-30(k), G.S. 47-32 and G.S. 47-32.2 are amended by deleting the phrase “Cherokee,” wherever it appears.

Sec. 2. This act is effective upon ratification and applies to maps presented to the Cherokee County Register of Deeds or filed in a special proceeding on and after that date.

In the General Assembly read three times and ratified, this the 27th day of March, 1981.

H. B. 390

CHAPTER 139
AN ACT TO PROVIDE THAT BEGINNING IN 1984, THE CLEVELAND COUNTY BOARD OF EDUCATION SHALL TAKE OFFICE IN JULY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-22 is amended by deleting the words “first Monday in December”, and inserting in lieu thereof the words “first Monday in July”.

Sec. 2. This act shall apply only to the Cleveland County Board of Education.

Sec. 3. This act shall become effective July 1, 1984.

In the General Assembly read three times and ratified, this the 27th day of March, 1981.

H. B. 409

CHAPTER 140
AN ACT TO BRING CASWELL COUNTY UNDER THE STANDARD STATE REQUIREMENTS FOR RECORDING AND FILING LAND MAPS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 47-30(k), G.S. 47-32, and G.S. 47-32.2 are amended by deleting the phrase “Caswell,” wherever it appears.

Sec. 2. This act shall become effective July 1, 1981, and shall apply to maps presented to the Caswell County Register of Deeds or filed in a special proceeding on and after that date.

In the General Assembly read three times and ratified, this the 27th day of March, 1981.
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H. B. 481  CHAPTER 141
AN ACT AUTHORIZING THE SAMPSON COUNTY BOARD OF
EDUCATION TO CONVEY CERTAIN REAL PROPERTY TO THE
COHARIE INTRA-TRIBAL COUNCIL, INC.

Whereas, the Coharie Intra-Tribal Council, Inc., is a nonprofit
organization dedicated to the preservation of Indian heritage in Sampson
County; and

Whereas, for many years certain property and buildings owned by the
Sampson County Board of Education were used exclusively for the public
education of Indians residing in the Sampson County School Administrative
Unit; and

Whereas, this property and buildings are no longer necessary or desirable
for public school purposes and the Sampson County Board of Education desires
to convey this property and buildings to the Coharie Intra-Tribal Council, Inc.,
so that the property may be used to preserve and continue the fine heritage of
the Indian people in Sampson County and throughout North Carolina; Now,
therefore,

The General Assembly of North Carolina enacts:

Section 1. The Sampson County Board of Education is hereby
authorized to enter into an arrangement with the Coharie Intra-Tribal Council,
Inc., for the sale, lease, or other disposition of real property presently owned by
the Sampson County Board of Education, or which may hereafter be conveyed
to the Sampson County Board of Education by the State Board of Education,
and located in Herring’s Township, Sampson County, and more fully described
as follows:

“Beginning at a stake on the western margin of the U. S. Highway No. 421, a
new corner of the Henry Vann property, and runs with the western margin of
said highway S. 11-E., 195 feet to a stake, the corner of the N. C. State Board of
Education lot; thence with the line of said N. C. State Board of Education lot S.
67-W., 535 feet to a stake in the line of the Henry Vann property, another
corner of the N. C. State Board of Education lot, thence with the line of the
Henry Vann property N. 41-W., 200 feet to a stake, another new corner of the
Henry Vann property, thence again with the line of the Henry Vann property
N. 67-E., 635 feet to the beginning, containing 2.5 acres, more or less.

Beginning at a stake on the western edge of U. S. Highway No. 421 and the
north edge of the public lane, the B. A. Parker corner, and runs with the
northern edge of said lane and the line of B. A. Parker S. 79-W., 419 feet to a
stake in the line of the B. A. Parker property, a new corner of the Henry Vann
property; thence with the line of the said Henry Vann property N. 41-W. 199
feet to a stake in the Vann line, the corner of the Sampson County Board of
Education lot; thence with the line of said lot N. 67-E., 535 feet to a stake on
the western edge of the U. S. Highway No. 421; another corner of the Sampson
County Board of Education lot; thence with the western margin of said
Highway S. 11-E., 283 feet to the beginning, containing 2.5 acres, more or less.”

The Sampson County Board of Education is authorized to dispose of this
land and any buildings situated thereon in any manner the Sampson County
Board of Education deems wise, with or without consideration, and without
following the requirements set forth in G.S. 115-126.

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 27th day of March, 1981.

S. B. 162

CHAPTER 142
AN ACT TO PERMIT CLERK OF SUPERIOR COURT FUNCTIONING IN DISTRICT COURT MATTERS TO ACCEPT CERTAIN WRITTEN APPEARANCES, WAIVERS OF TRIAL AND PLEAS OF GUILTY WHERE AN INCREASED AMOUNT OF RESTITUTION IS MADE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-180(8) is amended by deleting the phrase "three hundred dollars ($300.00)" and by substituting the following: "four hundred dollars ($400.00)."

Sec. 2. This act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 27th day of March, 1981.

S. B. 171

CHAPTER 143
AN ACT TO AUTHORIZE THE TOWN OF LAURINBURG TO SELL ONE PARCEL OF LAND AT PRIVATE SALE AND TO EXEMPT SALE OF THAT AND ONE OTHER PARCEL FROM G.S. 14-234.

The General Assembly of North Carolina enacts:

Section 1. The City of Laurinburg is hereby authorized to convey by good and sufficient deed its right, title and interest in and to the following described parcel of land, at private sale or exchange for fair value, to the McNair Investment Company:

Beginning at the intersection of the southern line of Fairly Street with the western line of Atkinson Street, and running with the western line of Atkinson Street South 23 degrees and 46 minutes west 110 feet to an iron stake; thence North 69 degrees and 19 minutes West 123 feet to a corner; thence South 23 degrees and 46 minutes West 25 feet to the northern line of Pine Alley; thence with the northern line of Pine Alley North 67 degrees and 19 minutes West 15 feet to a corner; thence North 23 degrees and 46 minutes East 135 feet to the southern line of Fairly Street; thence with the southern line of Fairly Street South 67 degrees and 19 minutes East 138 feet to the beginning.

Sec. 2. The provisions of G.S. 14-234 shall not apply to either: (i) the sale or exchange of the property described in Section 1 of this act under the authority of this act or under Article 12 of Chapter 160A of the General Statutes or (ii) to the sale or exchange under Article 12 of Chapter 160A of the General Statutes of the following described parcel of land:

BEGINNING at a point in the northern right-of-way of Fairly Street, said point being north 68 degrees 30 minutes west 156.58 feet along the northern right-of-way of Fairly Street from its intersection with the western right-of-way line of McLaurin Avenue, said point being the southwest corner of the property of Laurinburg Machine Company; thence north 21 degrees 30 minutes east 150 feet to a point in the line of the Laurinburg Oil Company property; thence north 68 degrees 30 minutes west along said Laurinburg Oil Company line 76 feet to a point, the corner of Laurinburg Oil Company property; thence south 21 degrees 30 minutes west along said Laurinburg Oil Company line 150 feet to a
point in the northern right-of-way line of Fairly Street; thence south 68 degrees 30 minutes east along said northern right-of-way line of the Fairly Street 76 feet to the point of BEGINNING.

Sec. 3. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 27th day of March, 1981.

H. B. 58

CHAPTER 144

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF TROUTMAN AND TO REPEAL PRIOR CHARTER ACTS.
The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Troutman is hereby revised and consolidated to read as follows:

"THE CHARTER OF THE TOWN OF TROUTMAN.

"ARTICLE I.

"Incorporation and Corporate Powers.

"Sec. 1.1. Incorporation and general powers. The Town of Troutman shall continue to be a body politic and corporate under the name of the 'Town of Troutman', and shall continue to be vested with all property and rights which now belong to the Town; shall have perpetual succession; may have a common seal and alter and renew the same at pleasure; may sue and be sued; may contract, may acquire and hold all such property, real and personal, as may be devised, bequeathed, sold or in any manner conveyed or dedicated to it, or otherwise acquired by it, and may from time to time hold or invest, sell, or dispose of the same; and shall have and may exercise in conformity with this Charter all municipal powers, functions, rights, privileges, and immunities of every name and nature.

"Sec. 1.2. Powers. The Town of Troutman shall have and may exercise all of the powers, duties, rights, privileges and immunities, which are now or hereafter may be conferred, either expressly or by implication, upon the Town of Troutman specifically or upon municipal corporations generally, by this Charter, by the State Constitution, or by general or special statute. Provided further that the Town of Troutman shall be authorized to participate in all federal programs not contrary to the Constitution of the State of North Carolina and not explicitly denied to municipalities by the general statutes.

"ARTICLE II.

"Corporate Boundaries.

"Sec. 2.1. Existing corporate boundaries. (a) The corporate limits of the Town of Troutman shall be those existing at the time of the ratification of this Charter and as the same may be altered from time to time in accordance with law. The Board of Aldermen shall cause to be prepared a map to be designated 'Map of the Town of Troutman Corporate Limits' showing the corporate limits as the same may exist as of the effective date of this Charter. The Board of Aldermen shall also cause to be prepared a written description of the corporate limits as shown on said map to be designated 'Description of Troutman Corporate Limits'. Said map and description shall be retained permanently in the office of the Town Clerk as the official map and a description of the corporate limits of the Town. Immediately upon alteration of the corporate limits made pursuant to law from time to time, the Board of Aldermen shall
cause to be made the appropriate changes and/or additions to said official map and description. Photographic types or other copies of said official map or description certified as by law provided for the certification of ordinances shall be admitted in evidence in all courts and shall have the same force and effect as would the official map of description.

(b) The Town Board shall require the redrawing of the official map and the rewriting of the official description as may from time to time be required. A redrawn map and a rewritten description shall supersede for all purposes the earlier maps and descriptions which are respectively replaced.

"Sec. 2.2. Extension of corporate boundaries. All extensions of the corporate boundaries shall be governed by the General Statutes of North Carolina.

"ARTICLE III.

"Mayor and Board of Aldermen.

"Sec. 3.1. Composition of Board of Aldermen. The Board of Aldermen shall consist of five members to be elected by the qualified voters of the Town voting at large in the manner provided in Article IV of this Charter.

"Sec. 3.2. Mayor and Mayor Pro Tempore. The Mayor shall be elected by and from the qualified voters of the Town voting at large in the manner provided in Article IV of this Charter. The Mayor shall be the official head of the town government and shall preside at all meetings of the Board of Aldermen. When there is an equal division on a question, the Mayor shall resolve the deadlock by his or her vote, but he or she shall vote in no other case. The Mayor shall exercise such powers and perform such duties as are or may be conferred upon him or her by the general laws of North Carolina, by this Charter, and by the ordinances of the Town. The Board of Aldermen shall choose one of its number to act as Mayor Pro Tempore, and he or she shall perform the duties of the Mayor in the Mayor's absence or disability. The Mayor Pro Tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Board.

"Sec. 3.3. Terms; qualifications; vacancies. (a) The Mayor and members of the Board of Aldermen shall serve for terms of four years, beginning the day and hour of the organizational meeting following their election, as established by ordinance in accordance with this Charter; provided, they shall serve until their successors are elected and qualify.

(b) No person shall be eligible to be a candidate or be elected as Mayor or as a member of the Board of Aldermen or to serve in such capacity, unless he is a resident and a qualified voter of the Town.

(c) In the event a vacancy occurs in the office of Mayor or Alderman, the Board shall by majority vote appoint some qualified person to fill the same for the remainder of the unexpired term.

"Sec. 3.4. Organization of Board of Aldermen: oaths of office. The Board of Aldermen shall meet and organize for the transaction of business at the first regularly scheduled meeting of the Board following each biennial election. Before entering upon their offices, the Mayor and each Alderman shall take and subscribe to the following oath of office:

'I, __________________, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and Laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as _____________, so help me, God.'
"Sec. 3.5. Meetings of Board. The Board of Aldermen shall fix a suitable time and place for its regular meetings, which shall be held at least as often as once monthly. Special meetings may be held according to the procedures and requirements designated by the general laws of North Carolina pertaining to special meetings of city councils.

"Sec. 3.6. Quorum: votes. (a) A majority of the members elected to the Board of Aldermen shall constitute a quorum for the conduct of business, but a less number may adjourn from time to time and compel the attendance of absent members in such manner as may be prescribed by ordinance.

(b) The affirmative vote of a majority of the members elected to the Board of Aldermen (not excused from voting on the question in issue) shall be necessary to adopt any ordinance, or any resolution or motion.

"Sec. 3.7. Ordinances and resolutions. The adoption, amendment, repeal, pleading, or proving of ordinances shall be in accordance with the applicable provisions of the general laws of North Carolina not inconsistent with this Charter. The ayes and noes shall be taken upon all ordinances and resolutions and entered upon the minutes of the Board. The enacting clause of all ordinances shall be: ‘Be it ordained by the Board of Aldermen of the Town of Troutman’. All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein.

"ARTICLE IV.

"Elections.

"Chapter 1. Municipal Elections.

"Sec. 4.1. Regular municipal elections. Regular municipal elections shall be held biennially in odd-numbered years on the day set by general law for municipal elections. In each election, the candidate for Mayor who receives the largest number of votes cast for Mayor shall be declared elected for a term of four years and at the regular municipal election held in 1979 the three candidates who receive the highest number of votes shall be elected for four-year terms and the two candidates who receive the next highest votes shall be elected for two-year terms. Beginning at the regular municipal election to be held in 1981 and every four years thereafter, two members of the Board of Aldermen shall be elected to serve four-year terms. Beginning at the regular municipal election to be held in 1983, and every four years thereafter, three members of the Board of Aldermen shall be elected to serve four-year terms.

"Sec. 4.2. Regulation of elections. All Town elections shall be conducted in accordance with the general laws of North Carolina relating to municipal elections.

"Sec. 4.3 - 4.8 (Reserved).

"Chapter 2. Recall of Elected Officials.

"Sec. 4.9. Removal of officeholders. The holder of any elective office serving in the municipal government of the Town may be removed at any time by the electors qualified to vote for a successor of such incumbent.

"Sec. 4.10. Procedure. (a) A petition signed by electors entitled to vote for a successor to the incumbent sought to be removed, equal in number to at least twenty-five percentum (25%) of the registered and qualified voters of the Town, demanding an election of a successor of the person sought to be removed, shall be filed with the Town Clerk. The petition shall contain a general statement of the ground for which the removal is sought. The signatures to the petition need not all be appended to one paper, but each signer shall add to his or her
signature his or her place of residence, giving the street and number. One of the signers of each such paper shall make oath before an officer competent to administer oaths that the statements therein made are true, as he believes, and that each signature to the paper appended is the genuine signature of the person whose name it purports to be.

(b) Within 10 days from the date of filing of such petition, the Town Clerk shall examine and from the voters' register ascertain whether or not the petition is signed by the requisite number of qualified electors, and he shall attach to the petition his certificate, showing the results of such examination. If by the clerk's certificate it is shown to be insufficient, it may be amended within 10 days from the date of the certificate. The clerk shall, within 10 days after such amendment, make a like examination of the amended petition, and if his certificate shall show the same to be insufficient, it shall be returned to the person filing the same, without prejudice, however, to the filing of a new petition to the same effect. If the petition shall be deemed to be sufficient, the clerk shall submit the same to the Town Board without delay.

(c) If the petition shall be found to be sufficient, the Town Board shall order and fix a date for holding a primary election, in accordance with State law governing special elections. If, in the primary election, any candidate receives a majority of all votes cast, he shall be declared to be elected to fill out the remainder of the term of the officer who is sought to be recalled. If there be more than two candidates in such primary and no one receives a majority of all the votes cast therein, then the Board shall call another election, to be held in accordance with State law governing special elections, at which election the two candidates receiving the highest vote in the primary shall be voted upon. Insofar as possible, the laws, rules and procedures governing the conduct of regular municipal elections shall apply to any election called pursuant to this section.

"Sec. 4.11. Successor in office. The successor of any officer so removed shall hold office during the unexpired term of his or her predecessor. Any person sought to be removed may be a candidate to succeed himself, and unless he or she requests otherwise in writing, the clerk shall place his or her name on the official ballot without nomination. At such election, if some person other than the incumbent is elected the incumbent shall thereupon be deemed removed from the office upon qualification of his or her successor. If the incumbent received a majority of the votes in the primary election, he or she shall continue in office.

"Sec. 4.12. Failure to qualify. In case the person elected should fail to qualify within 10 days after receiving notification of election, the office shall be deemed vacant. In that event, the unexpired term shall be filled by appointment by the Town Board, but the person removed shall not be eligible for appointment. The person so appointed by the Board shall be subject to recall as other members of the Board.

"Sec. 4.13. Right of recall continued. Such method of removal shall be cumulative and additional to any other method provided by law. In the event any officer is recalled and any person is elected as his successor, the right of recall of such successor so elected shall be as in the case of an officer originally elected.

"ARTICLE V.

"Organization and Administration.

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“Chapter 1. Town Manager.


“Chapter 2. Town Attorney.

“Sec. 5.2. Appointment, qualifications, term, and compensation. (a) The Board of Aldermen shall appoint a Town Attorney who shall be an attorney at law licensed to engage in the practice of law in North Carolina and who need not be a resident of the Town during his tenure. The Town Attorney shall serve at the pleasure of the Board and shall receive such compensation as the Board shall determine.

(b) The Board of Aldermen may also employ such other attorneys as it deems advisable in order to provide legal advice and assistance to the Town.

“Sec. 5.3. Duties of Town Attorney. It shall be the duty of the Town Attorney to prosecute and defend suits for and against the Town; to advise the Mayor, Board of Aldermen and other Town officials with respect to the affairs of the Town; to draft all legal documents relating to the affairs of the Town; to draft proposed ordinances when requested to do so; to inspect and pass upon all agreements, contracts, franchises and other instruments with which the Town may be concerned; to attend all meetings of the Board of Aldermen when required by the Board; and to perform such other duties as may be required of him by virtue of his position as Town Attorney.

“ARTICLE VI.

“Other Administrative Officers and Employees.

“Sec. 6.1. Town Clerk and Deputy Town Clerk. (a) The Board of Aldermen shall appoint a Town Clerk and may appoint a Deputy Town Clerk to keep a journal of the proceedings of the Board, to maintain in a safe place all records and documents pertaining to the affairs of the Town, and to perform such other duties as may be required by law or as the Board may direct.

(b) The Town Board may combine the position of the Town Clerk with any other office or offices that it sees fit, vesting in the person holding such combined office or offices the powers and duties of all offices.

“Sec. 6.2. Tax Collector. (a) The Town Board shall appoint a Tax Collector and may appoint a Deputy Tax Collector to collect all taxes, licenses, fees and other moneys due the Town, subject to the provisions of State law and ordinances of the Town. The Tax Collector shall diligently comply with and enforce all the general laws of North Carolina relating to the collection of taxes by municipalities, and shall perform such other duties as the Board may direct.

(b) The Town Board may combine the position of Tax Collector with any other office or offices that it sees fit, vesting in the person holding such combined office or offices the powers and duties of all offices.

“Sec. 6.3. Finance Officer. (a) The Town Board shall appoint a Finance Officer and may appoint a Deputy Finance Officer to perform the duties of the Finance Officer as required by the Local Government Budget and Fiscal Control Act, and to perform such other duties as the Board may direct.

(b) The Town Board may combine the position of Finance Officer with any other office or offices that it sees fit, vesting in the person holding such combined office or offices the powers and duties of all offices.
"Sec. 6.4. Budget Officer. (a) The Town Board may appoint a Budget Officer and may appoint a Deputy Budget Officer to perform the duties of the Budget Officer as required by the Local Government Budget and Fiscal Control Act, and to perform such other duties as the Board may direct.

(b) The Town Board may combine the position of Budget Officer with any other office or offices that it sees fit, vesting in the person holding such combined office or offices the powers and duties of all offices.

"ARTICLE VII.

"Finance.

"Sec. 7.1. Custody of Town money. All moneys received by the Town for or in connection with the business of the Town government shall be paid promptly into the Town depository or depositories. Such institutions shall be designated by the Town Board in accordance with the regulations and subject to the requirements as to security for deposits and interest thereon as may be established by the General Statutes of North Carolina. All interest on moneys belonging to the Town shall accrue to the benefit of the Town. All moneys belonging to the Town shall be disbursed in accordance with the provisions of the Local Government Budget and Fiscal Control Act.

"Sec. 7.2. Independent audit. As soon as possible after the close of each fiscal year, an independent audit shall be made of all books and accounts of the Town government by a certified public accountant or an accountant certified by the Local Government Commission. The audit shall be secured in accordance with the provisions of the Local Government Budget and Fiscal Control Act.

"ARTICLE VIII.

"Police.

"Sec. 8.1. Jurisdiction. The jurisdiction of the police force is hereby extended to include all Town-owned property and facilities whether located within or outside the corporate limits, and all members of the police force shall have upon and within such property and facilities all rights, power and authority as they have within the corporate limits.

"ARTICLE IX.

"Street and Sidewalk Improvements.

"Sec. 9.1. Street improvements and assessment of costs. In addition to any authority which is now or may hereafter be granted by general law to the Town for making street improvements the Board of Aldermen is hereby authorized to make street improvements and to assess the cost thereof against abutting property owners in accordance with the provisions of this Article.

"Sec. 9.2. When petition unnecessary. The Board of Aldermen may order street improvements and assess the cost thereof, exclusive of the costs incurred at street intersections against the abutting property owners, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes, without the necessity of a petition, upon the finding by the Board as a fact:

(a) That the street improvement project does not exceed 1,200 linear feet, and

(b) That such street or part thereof is unsafe for vehicular traffic and it is in the public interest to make such improvement, or

(c) That it is in the public interest to connect two streets, or portions of a street already improved, or

(d) That it is in the public interest to widen a street, or part thereof, which is already improved; provided, that assessments for widening any street or portion
of street without a petition shall be limited to the cost of widening and otherwise improving such street in accordance with the street classification and improvement standards established by the Town’s thoroughfare or major street plan for the particular street or part thereof to be widened and improved under the authority granted by this Article.

"Sec. 9.3. Street improvement defined. For the purposes of this Article, the term ‘street improvement’ shall include grading, regrading, surfacing, resurfacing, widening, paving, repaving, the acquisition of right-of-way, and the construction or reconstruction of curbs, gutters and street drainage facilities.

"Sec. 9.4. Sidewalks: assessment of costs. In addition to any authority which is now or may hereafter be granted by general law to the Town for making sidewalk improvements, the Board of Aldermen is hereby authorized, without the necessity of a petition, to make or to order to be made sidewalk improvements or repairs according to standards and specifications of the Town, and to assess the total cost thereof against abutting property owners, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes; provided, however, that regardless of the assessment basis or bases employed, the Board of Aldermen may order the cost of sidewalk improvements made only on one side of a street to be assessed against property owners abutting both sides of such street.

"Sec. 9.5. Assessment procedure. In ordering street and sidewalk improvements without a petition and assessing the cost thereof under authority of this Article, the Board of Aldermen shall comply with the procedure provided by Article 10, Chapter 160A of the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.

"Sec. 9.6. Effect of assessments. The effect of the act of levying assessments under the authority of this Article shall for all purposes be the same as if the assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes.

"Sec. 9.7. Acceptance of conveyance in satisfaction of assessments. The Town Tax Collector or other official or employee of the Town having charge of the collection of special assessments, shall have the right, power and authority, by and with the approval of the Board of Aldermen first obtained and had, to receive and accept a fee simple conveyance to the Town of any lot or parcel of land in the Town, free and clear of other encumbrances, in full settlement and satisfaction of all street and sidewalk assessments outstanding and unpaid against such property. Such right, power, and authority, however, shall be limited to a conveyance of the whole of the lot or parcel of land against which the particular assessment or assessments involved were levied. No lot or tract of land may be divided and no such right, power, and authority exercised as to a part, only, of the property originally embraced in and covered by said assessment or assessments. In the case of such conveyance, it shall not be necessary that the street or sidewalk assessment or assessments against the property be foreclosed; but the Town, upon the receipt of any such conveyance, shall become and be the absolute fee simple owner of the property, as fully to all intents and purposes as if purchased in and through foreclosure proceedings for the enforcement of such street and sidewalk assessment or assessments.

"ARTICLE X.

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“Condemnation Proceedings.

"Sec. 10.1. Power of eminent domain. (a) The procedures provided in Article 9 of Chapter 136 of the General Statutes, as specifically authorized by G.S. 136-66.3(c), shall be applicable to the Town in the case of acquisition of lands, easements, privileges, rights-of-way and other interests in real property for streets and sidewalks, sewer lines, waterlines, and other utility lines in the exercise of the power of eminent domain. The Town, when seeking to acquire such property or rights or easements therein or thereto, shall have the right and authority, at its option and election, to use the provisions and procedures as authorized and provided in G.S. 136-66.3(c) and Article 9 of Chapter 136 of the General Statutes for any of such purposes without being limited to streets constituting a part of the State highway system; provided, however, that the provisions of this subsection shall not apply with regard to properties owned by public service corporations as defined in G.S. 160A-243(c), unless:

(1) the exercise of such power of eminent domain is either consented to by the owner of the property to be acquired by the Town; or
(2) it is first adjudicated after notice and a hearing that such acquisition will not prevent or unreasonably impair the continued devotion to the public use of such properties and the operation by such public service corporation.

(b) The authority conferred upon the Town in subsection (a) shall only be exercised when the Town is seeking to acquire land, easements, privileges, rights-of-way or other interests in real property located in and outside the corporate limits of the Town.

“ARTICLE XI.

“Special Provisions.

"Sec. 11.1. Incorporation by reference. (a) The Town Board is hereby authorized to adopt by reference the provisions of any code or public record, as herein defined, or portions thereof, without setting forth the provisions of such code or public record in full, and the contents of any map or plat; provided that official copies of all codes, public records, maps and plats, as are adopted by reference, shall be maintained for public inspection in the office of the Town Clerk.

(b) As used in this section, the following terms shall have the meanings indicated as follows, unless the context otherwise requires:

(1) 'Code' shall mean and include any published compilation of rules and regulations which have been prepared by various technical trade associations, agencies or departments of the State of North Carolina, and shall include specifically, but shall not be limited to, building codes; plumbing codes; electrical wiring codes; fire prevention codes; traffic codes; inflammable liquids codes; gas codes; heat and air conditioning codes; together with any other code which embraces rules and regulations pertinent to a subject which is a proper municipal legislative matter.

(2) 'Public records' shall mean and include any municipal State or federal statute, rule or regulation adopted prior to the exercise by the Town of the authority to incorporate by reference herein granted; provided, however, that this definition shall not include the municipal ordinances, rules and regulations of any municipality except those of the
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Town of Troutman nor shall this definition include the State laws, rules and regulations of any other than the State of North Carolina.

(3) ‘Map’ or ‘Plat’ shall mean any map or plat recorded in the office of the register of deeds of Iredell County, North Carolina, or on file in the office of the Town Clerk of the Town of Troutman, North Carolina.

(4) ‘Published’ shall mean printed, lithographed, multigraphed, mimeographed or otherwise reproduced.

(c) Any amendment which may be made to any code, public record, map or plat incorporated by reference by the Town Board hereunder may be likewise adopted by reference; provided, that such amendment adopted by reference shall be maintained for public inspection in the office of the Town Clerk."

Sec. 2. (a) The purpose of this act is to revise the Charter of the Town of Troutman and to consolidate herein certain acts concerning the property, affairs, and government of the Town. It is intended to continue without interruption those provisions of prior acts which are consolidated into this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

(b) This act shall not be deemed to repeal, modify, or in any manner affect any of the following acts, portions of acts, or amendments thereto, whether or not such acts, portions of acts, or amendments are expressly set forth herein:

(1) any acts concerning the property, affairs, or government of public schools in the Town of Troutman;

(2) any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

(c) The following act, having served the purposes for which it was enacted, or having been consolidated into this act is hereby repealed: Chapter 158, Private Laws 1973.

(d) No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

(1) now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provision of law repealed by this act;

(2) derived from, or which might be sustained or preserved in reliance upon, action heretofore taken (including the adoption of ordinances or resolutions) pursuant to or within the scope of any provisions of law repealed by this act.

(e) No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(1) the repeal herein of any act repealing such law, or

(2) any provision of this act that disclaims an intention to repeal or effect enumerated or designated laws.

(f) (1) All existing ordinances and resolutions of the Town of Troutman, and all existing rules or regulations of departments or agencies of the Town of Troutman, not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified or amended.

(2) No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or against the Town of Troutman or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

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(g) Severability. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

(h) Whenever a reference is made in this act to a particular provision of the General Statutes, and such provision is later amended, repealed or superseded, the reference shall be deemed amended to refer to the amended General Statute, or to the General Statute which most clearly corresponds to the statutory provision which is repealed or superseded.

(i) All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.”

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1981.

H. B. 211 CHAPTER 145
AN ACT TO RESTRICT THE USE OF DIVISION OF MOTOR VEHICLES’ DRIVERS’ LICENSE RECORDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-26 is hereby amended by adding a new subsection at the end thereof to be designated subsection (d) and to read as follows:

“(d) The charge for records provided pursuant to this section shall not be subject to the provisions of Chapter 132 of the General Statutes.”

Sec. 2. G.S. 20-27(a) is hereby amended by striking the period at the end thereof and adding the following words: “and copies shall be provided pursuant to the provisions of G.S. 20-26.”

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1981.

H. B. 248 CHAPTER 146
AN ACT TO ESTABLISH THE CRIME OF FORGING CERTAIN SCHOOL TRANSCRIPTS OR DIPLOMAS.

The General Assembly of North Carolina enacts:

Section 1. A new section is added to Article 21, Chapter 14, of the General Statutes to read:

“§14-122.1. Forging of transcripts and diplomas.—It is a misdemeanor for any person either to:

(1) make a false or altered transcript or diploma from any secondary school, technical or community college, State Board of Community Colleges, college or university; or

(2) use such a document with intent to defraud.”

Sec. 2. This act shall become effective on October 1, 1981.

In the General Assembly read three times and ratified, this the 31st day of March, 1981.
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H. B. 351    CHAPTER 147

AN ACT TO AUTHORIZE THE CREATION OF JOINT FIRE AND RESCUE PROTECTION DISTRICTS WITHIN FORSYTH COUNTY.

The General Assembly of North Carolina enacts:

Section 1. (a) In addition to the authority contained in Chapter 69, Article 3A of the North Carolina General Statutes, relating to the establishment of rural fire protection districts, the resident freeholders living in an area lying outside the corporate limits of any city or town are hereby authorized to petition for an election to establish a joint fire and rescue protection district for the purpose of providing fire and general rescue protection in said district.

(b) For purposes of petitioning for an election on the establishment of a fire and rescue protection district, all of the conditions and requirements of Article 3A of Chapter 69 shall control except that wherever the words “fire district”, “fire protection district”, or “fire protection” are used, they are deemed to refer, respectively, to the words and phrases “fire and rescue district”, “fire and rescue protection district”, and “fire and rescue protection”. The name “(Here insert name) Fire Protection District” is deemed to refer to “(Here insert name) Fire and Rescue Protection District”.

(c) In the event that a majority of the qualified voters voting at said election vote in favor of levying and collecting a special fire and rescue protection tax, the levy of the tax and the establishment of the fire and rescue protection district shall be in accordance with the provisions of Article 3A of Chapter 69, except that the tax and the district shall be for fire and rescue protection. All references to “fire protection”, “fire district”, “fire protection district”, and a “fire tax” shall be deemed to refer, respectively, to “fire and rescue protection”, “fire and rescue district”, “fire and rescue protection district”, and a “fire and rescue tax”, for purposes of this act.

(d) After the establishment of a fire and rescue protection district, all provisions of Article 3A of Chapter 69 relating to further elections; methods of providing protection; contracts; special fund; rights, privileges and immunities; abolishment and changes in the area of the district; and all other provisions thereof shall control. It is the intent of this act that except that the district is established for fire and rescue protection, all provisions of procedure and substance of Article 3A of Chapter 69 shall be applicable to the district, including amendments and changes which may be made in that law.

(e) The term “rescue protection” as used in this act and the levy of a tax for that purpose shall mean the levy, appropriation and expenditure of funds for furnishing emergency medical and ambulance services to protect persons within the district from injury or death from any cause or threat as part of rescue operations, including the expenditure of funds for capital outlay and current expense items for rescue squads.

Sec. 2. Any fire protection district previously established and in existence is authorized, by compliance with the procedures set forth in Section 1, to vote on and establish a joint fire and rescue protection district. If approved by the voters at an election, the fire protection district shall become a fire and rescue protection district. If defeated in an election, the present fire protection district shall remain in existence unless changed or abolished as provided by law.
Sec. 3. This act applies only to Forsyth County.
Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1981.

S. B. 133

CHAPTER 148

AN ACT TO INCREASE THE MEMBERSHIP OF THE PRIVATE PROTECTIVE SERVICES BOARD BY TWO.

The General Assembly of North Carolina enacts:

Section 1. The first sentence of G.S. 74C-4(b) is rewritten to read:
"The board shall consist of 10 members: the Attorney General or his designated representative, two persons appointed by the Attorney General, one person appointed by the Governor, two persons appointed by the Lieutenant Governor, one person appointed by the President Pro Tem of the Senate and three persons appointed by the Speaker of the House of Representatives."

Sec. 2. The one additional appointment to be made by the Lieutenant Governor and the one additional appointment to be made by the Speaker of the House shall be made within 10 days of the effective date of this act and in a manner prescribed by Chapter 74C. The persons initially appointed pursuant to this section shall serve until July 1, 1983, and the terms for these appointments shall be for two years thereafter.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1981.

S. B. 218

CHAPTER 149

AN ACT TO ALLOW THE CITY OF NEWTON TO USE THE PROVISIONS OF CHAPTER 136 OF THE GENERAL STATUTES IN CONDEMNATION PROCEEDINGS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Newton, as contained in Section 1 of Chapter 112, Session Laws of 1967 is amended by adding a new section to read:
"Sec. 1.4. Eminent Domain. In the exercise of the power of eminent domain granted to the City of Newton by this Charter or any other law, public or local, the city may follow the procedures now or hereafter prescribed by said laws; provided, that in the exercise of its authority of eminent domain for the acquisition of property to be used for streets and highways, water and sewer facilities, and for all other purposes authorized by the provisions of G.S. 160A-241, the City of Newton is hereby authorized to use the procedure and authority prescribed in Article 9 of Chapter 136 of the General Statutes of North Carolina, as now or hereafter amended; provided, further, that all reference in Article 9 of Chapter 136 of the General Statutes to 'Department of Transportation' shall be deemed to mean 'City of Newton', all reference to the 'Secretary of Transportation' shall be deemed to mean 'City Manager' of the City of Newton, all references to 'Raleigh' shall be deemed to mean 'Newton', and all other reference, directly or by implication, to the condemning authority
or persons or agencies connected therewith shall be deemed to mean the City of Newton.

Provided, however, that the provisions of this section shall not apply with regard to properties owned by public service corporations as defined in G.S. 160A-243(c) unless the exercise of such power of eminent domain is either consented to by the owner of the property to be acquired by the city, or otherwise first adjudicated after notice and a hearing that such acquisition will not prevent or unreasonably impair the continued devotion to the public use of such properties and the operation by such public service corporation."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1981.

S. B. 219

CHAPTER 150

AN ACT TO ALLOW THE TOWN OF MAIDEN TO USE THE PROVISIONS OF CHAPTER 136 OF THE GENERAL STATUTES IN CONDEMNATION PROCEEDINGS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Maiden, as contained in Chapter 103, Private Laws of 1883 is amended by adding a new section to read:

"Sec. 2.1. Eminent Domain. In the exercise of the power of eminent domain granted to the Town of Maiden by this Charter or any other law, public or local, the town may follow the procedures now or hereafter prescribed by said laws; provided, that in the exercise of its authority of eminent domain for the acquisition of property to be used for streets and highways, water and sewer facilities, and for all other purposes authorized by the provisions of G.S. 160A-241, the Town of Maiden is hereby authorized to use the procedure and authority prescribed in Article 9 of Chapter 136 of the General Statutes of North Carolina, as now or hereafter amended; provided, further, that all reference in Article 9 of Chapter 136 of the General Statutes to 'Department of Transportation' shall be deemed to mean 'Town of Maiden', all reference to the 'Secretary of Transportation' shall be deemed to mean 'Mayor' of the Town of Maiden, all references to 'Raleigh' shall be deemed to mean 'Maiden', and all other reference, directly or by implication, to the condemning authority or persons or agencies connected therewith shall be deemed to mean the Town of Maiden.

Provided, however, that the provisions of this section shall not apply with regard to properties owned by public service corporations as defined in G.S. 160A-243(c) unless the exercise of such power of eminent domain is either consented to by the owner of the property to be acquired by the city, or otherwise first adjudicated after notice and a hearing that such acquisition will not prevent or unreasonably impair the continued devotion to the public use of such properties and the operation by such public service corporation."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1981.
S. B. 227

CHAPTER 151

AN ACT TO ALLOW THE COUNTY OF ROWAN TO FOLLOW THE
GENERAL LAW CONCERNING LOCAL DEVELOPMENT IN G.S.
158-7.1 AND G.S. 158-7.2.

The General Assembly of North Carolina enacts:

Section 1. Sections 1 and 2 of Chapter 657, Session Laws of 1961, are
repealed.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of
March, 1981.

S. B. 239

CHAPTER 152

AN ACT TO AUTHORIZE THE COUNTY BOARD OF ELECTIONS TO SET
THE TIME AND DATE FOR RETURN OF REGISTRATION AND
POLLBOOKS BY PRECINCT ELECTION OFFICIALS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-174, as the same appears in Volume 3D of the
General Statutes is rewritten to read:

§ 163-174. Registration and pollbooks to be returned to chairman of county
board of elections.—On the day preceding the county canvass or on the day of
the county canvass, following each primary and election, as may be directed by
the chairman of the county board of elections, the registrar (or judge appointed
to bring in the precinct returns) shall deliver the precinct registration book or
records and the pollbook to the chairman of the county board of elections at the
time directed by the chairman.”

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of
March, 1981.

S. B. 240

CHAPTER 153

AN ACT TO MAKE OPTIONAL THE METHOD OF CONVEYANCE OF
THE DUPLICATE COPY OF THE PRECINCT RETURN FORM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-173, as the same appears in Volume 3D of the
General Statutes, is amended by rewriting the second paragraph to read:

“One of the statements of the voting in the precincts shall be placed in a
sealed envelope and delivered to the registrar or a judge selected by the precinct
officials for the purpose of delivery to the county board of elections for review
at its meeting on the second day after the primary or election. The other copy of
the statement shall either be mailed immediately or delivered in person
immediately, as directed by the county board of elections, by one of the other
two precinct election officials, to the chairman of the county board of elections
or the supervisor of elections if authorized by the chairman to receive the
statement.”

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of
March, 1981.
CHAPTER 154 Session Laws—1981

S. B. 242

CHAPTER 154

AN ACT TO AUTHORIZE THE CHAIRMAN OF A COUNTY BOARD OF ELECTIONS TO ADMINISTER OATHS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 163 of the General Statutes is amended to add a new section to read:

"§ 163-33.1. Power of chairman to administer oaths.—The chairman of the county board of elections is authorized to administer to election officials specified in G.S. 163-80 the required oath, and may also administer the required oath to witnesses appearing before the county board at a duly called public hearing."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1981.

S. B. 245

CHAPTER 155

AN ACT TO PERMIT PRECINCT ELECTION OFFICIALS TO RECORD ABSENTEE VOTERS ON THE REGISTRATION RECORDS PRIOR TO THE CLOSING OF THE POLLS AND TO AUTHORIZE LEGAL GUARDIANS TO MAKE APPLICATION FOR ABSENTEE BALLOTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-232 is amended by rewriting the next to the last paragraph to read:

"After receipt of the list of absentee voters required by this section the registrar shall call the name of each person recorded on the list and enter an 'A' in the appropriate voting square on the voter's permanent registration record. If such person is already recorded as having voted in that election, the registrar shall enter a challenge which shall be presented to the chairman of the county board of elections for resolution by the board of elections prior to certification of results by the board."

Sec. 2. The last paragraph of G.S. 163-251(b) is rewritten to read:

"After receipt of the list of absentee voters required by this section the registrar shall call the name of each person recorded on the list and enter an 'A' in the appropriate voting square on the voter's permanent registration record, if any. If such person is already recorded as having voted in that election, the registrar shall enter a challenge which shall be presented to the chairman of the county board of elections for resolution by the board of elections prior to certification of results by the board."

Sec. 3. G.S. 163-227(c) is amended in subdivisions (3), (4) and (8) by adding the words "or legal guardian" following the word "relative" wherever it appears.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1981.
S. B. 254  CHAPTER 156
AN ACT TO AMEND CHAPTER 115 TO CLARIFY AND CONFORM THOSE PROVISIONS RELATING TO ELECTIONS TO THE GENERAL ELECTION LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-109 is amended by deleting "Article 9 of Chapter 153" and inserting in lieu thereof the words "Article 4 of Chapter 159" and is further amended by deleting in both places the words "County Finance Act", and inserting in lieu thereof "Local Government Bond Act".

Sec. 2. G.S. 115-122 is amended as follows:
(1) Rewrite the first paragraph to read:
"All elections under this Chapter shall be held and conducted by the appropriate county or municipal board of elections";
(2) Delete the third and fourth paragraphs and insert the following in lieu thereof:
"The notice of the election shall be given as provided in G.S. 163-33(8) and in addition include a legal description of the area within which the election is to be held, and, if any additional tax is proposed to be levied, the maximum rate of tax to be levied which shall not exceed the maximum prescribed by this Article, and the purpose of the tax.";
(3) By rewriting the fifth paragraph to read:
"No new registration of voters is required, but the board of elections, in its discretion, may use either Method A or Method B set forth in G.S. 163-288.2 in activating the voters in the territory.";
(4) By rewriting paragraph 6 to read:
"The ballot in such election shall contain the words 'FOR local tax and AGAINST local tax' except when the election is held under subsection (c) of G.S. 115-116, in which case the ballots shall contain the words 'FOR enlargement of the __________ City Administrative Unit and school tax of the same rate', and 'AGAINST enlargement of the __________ City Administrative Unit and school tax of the same rate', and
(5) Rewrite paragraphs 7 and 8 to read:
"The elections shall be held in accordance with the applicable provisions of Chapter 163 and the expense of the election shall be paid by the board of education of the administrative unit in which the election is held, provided that when territory is proposed to be added to a city administrative unit, that unit shall bear the expense.
No election held under this Article shall be open to question except in an action or proceeding commenced within 30 days after the board of elections has certified the results."

Sec. 3. G.S. 115-123 is amended as follows:
(1) By rewriting the third sentence in the second paragraph to read:
"In proposed districts, the petition must be signed by fifteen percent (15%) of the registered voters who reside in the area."; and
(2) By deleting from the third line of the third paragraph the word "and" after the word "call" and insert in lieu thereof the words "upon the county board of elections to".

Sec. 4. This act is effective upon ratification.
CHAPTER 156    Session Laws—1981

In the General Assembly read three times and ratified, this the 31st day of March, 1981.

H. B. 77    CHAPTER 157

AN ACT TO REWRITE ARTICLE 4 AND CERTAIN SECTIONS OF ARTICLE 3 OF CHAPTER 115D OF THE GENERAL STATUTES, COMMUNITY COLLEGE LAWS.

The General Assembly of North Carolina enacts:

Section 1. Article 4 of Chapter 115D of the General Statutes is rewritten to read as follows:

"ARTICLE 4.

"Budgeting, Accounting, and Fiscal Management.

§115D-45. Preparation and submission of institutional budget.--(a) On or before the first day of May of each year, trustees of each institution shall prepare for submission a budget request as provided in G.S. 115D-45(b) on forms provided by the State Board of Community Colleges. The budget shall be based on estimates of available funds if provided by the funding authorities or as estimated by the institution. The State Current Fund shall be based on available funds. All other funds shall be based on needs as determined by the board of trustees and shall include the following:

(1) State Current Fund.
(2) County Current Fund.
(3) Institutional Fund.
(4) Plant Fund.

(b) The budget shall be prepared and submitted for approval according to the following procedures:

(1) State Current Fund Budget. The budget request shall contain the items of current operating expenses as provided in G.S. 115D-31 for which State funds are requested. The approving authority for the State current fund budget request shall be the board of trustees and the State Board of Community Colleges.

(2) County Current Fund Budget. The budget request shall contain the items of current operating expenses, as provided in G.S. 115D-32, for which county funds are requested. The approving authority for the county current fund budget request shall be the board of trustees and the local tax-levying authority. The State Board of Community Colleges shall have approving authority pursuant to G.S. 115D-33 with respect to required local funding.

(3) Institutional Fund Budget. The budget request shall contain the items of current operating expenses, loan funds, scholarship funds, auxiliary enterprises, State, private, and federal grants and contracts and endowment funds for which institutional funds are requested. The approving authority for the institutional fund budget request shall be the board of trustees of the institution.

(4) Plant Fund Budget. The budget request shall contain the items of capital outlay, as provided in G.S. 115D-31 and G.S. 115D-32, for which funds are requested, from whatever source. The budget shall be submitted first to the local tax-levying authority, which shall approve or disapprove, in whole or in part, that portion of the budget requesting..."
local public funds. Upon approval by the local tax-levying authority, the
budget shall be submitted by the board of trustees to the State Board of
Community Colleges, which may approve or disapprove, in whole or in
part, that portion of the budget requesting State or federal funds. Plant
funds provided for construction and major renovations shall be
permanent appropriations until the conclusion of the project for which
appropriated.

(c) No public funds shall be provided an institution, either by the tax-levying
authority or by the State Board of Community Colleges, except in accordance
with the budget provisions of this Article.

(d) The preparation of a budget for and the payment of interest and principal
on indebtedness incurred on behalf of an institution shall be the responsibility
of the county finance officer or county finance officers of the administrative
areas, and the board of trustees of the institution shall have no duty or
responsibility in this connection.

(e) "Trust and Agency Fund" means funds held by an institution as custodian
or fiscal agent for others such as student organizations, individual students, or
faculty members. Trust and agency funds need not be budgeted.

"§ 115D-46. Budget management.—(a) Approval of budget by local tax-levying
authority. Not later than May 15, or such later date as may be fixed by the local
tax-levying authority, the budget shall be submitted to the local tax-levying
authority for approval of that portion within its authority as stated in G.S.
115D-45(b). On or before July 1, or such later date as may be agreeable to the
board of trustees, but in no instance later than September 1, the local tax-
levying authority shall determine the amount of county revenue to be
appropriated to an institution for the budget year. The local tax-levying
authority may allocate part or all of an appropriation by purpose, function, or
project as defined in the budget manual as adopted by the State Board of
Community Colleges.

The local tax-levying authority shall have full authority to call for all books,
records, audit reports, and other information bearing on the financial operation
of the institution except records dealing with specific persons for which the
persons' rights of privacy are protected by either federal or State law.

Nothing in this Article shall be construed to place a duty on the local tax-
levying authority to fund a deficit incurred by an institution through failure of
the institution to comply with the provisions of this Article or rules and
regulations issued pursuant hereto.

(b) Approval of budget by State Board of Community Colleges. Not later than
10 days after notification by the local tax-levying authority of the amount
appropriated, the budget shall be submitted to the State Board of Community
Colleges for approval of that portion within its authority as stated in G.S.
115D-45(b). The State Board of Community Colleges shall approve the budget
for each institution in such amount as the State Board decides is available and
necessary for the operation of the institution.

The State Board of Community Colleges shall have authority to call for all
books, records, audit reports and other information bearing on the financial
operation of the institution except records dealing with specific persons for
which the persons' rights of privacy are protected by either federal or State law.

Nothing in this Article shall be construed to place a duty on the State Board
of Community Colleges to fund a deficit incurred by an institution through
failure of the institution to comply with the provisions of this Article or rules and regulations issued pursuant hereto.

"§ 115D-47. Final adoption of budget.—Upon notification of approval by the State Board of Community Colleges, the board of trustees shall adopt a budget resolution as defined in the budget manual as adopted by the State Board of Community Colleges, which shall comply with the resolution of the State Board and the appropriations of the tax-levying authorities and all other funding agencies.

"§ 115D-48. Interim budget.—In case the adoption of the budget resolution is delayed until after July 1, the board of trustees shall authorize the president, through interim provisions, to pay salaries and the other ordinary expenses of the institution for the interval between the beginning of the fiscal year and the adoption of the budget resolution. Interim provisions so made shall be charged to the proper allocations in the budget resolution.

"§ 115D-49. Amendments to the budget; budget transfers.—(a) The State Board of Community Colleges shall adopt rules and regulations governing the amendment of the budget for an institution. The board of trustees may amend the budget at any time after its adoption pursuant to the rules and regulations of the State Board.

(b) If the local tax-levying authority allocates part or all of an appropriation pursuant to G.S. 115D-46, the board of trustees must obtain approval of the local tax-levying authority for an amendment to the budget which increases or decreases the amount of that appropriation allocated to a purpose, function, or project by twenty-five percent (25%) or more from the amount contained in the budget ordinance adopted by the local tax-levying authority or such lesser percentage as specified by the local tax-levying authority in the original budget ordinance, so long as such percentage is not less than ten percent (10%).

(c) The board of trustees may, by appropriate resolution, authorize the president to transfer monies from one appropriation to another within the same fund, subject to any limitations established by regulations adopted pursuant to this section, and subject to any limitations and procedures prescribed by the board of trustees or State or federal laws or regulations. Any such transfer shall be reported to the board of trustees at its next regular meeting and entered into its minutes.

"§ 115D-50. Federal contracts and grants.—The board of trustees of any institution may apply for and accept grants from the federal government or any agency thereof, in order to carry out the institution's mission. In exercising this authority, the board of trustees may enter into and carry out contracts with the federal government or any agency thereof, may agree to and comply with any lawful and reasonable condition attached to such a grant, and may make expenditures from any funds so granted. The State Board of Community Colleges shall adopt rules and regulations governing the application for and the acceptance of grants under this section.

"§ 115D-51. Allocation of revenue to the institution by the local tax-levying authority.—(a) The local tax-levying authority of each institution shall provide, as needed, funds to meet the monthly expenditures, including salaries and other necessary operating expenses, as set forth in a statement prepared by the board of trustees and in accordance with the approved budget. Upon the basis of the approved budget, the county finance officer shall make available to the
institutions the monies requested by the board of trustees no later than the 15th
day of the month for which funds are requested.

(b) Funds received by the trustees of an institution from insurance payments
for loss or damage to buildings shall be used for the repair or replacement of
such buildings, or, if the buildings are not repaired or replaced, to reduce
proportionally the institutional indebtedness borne by the counties of the
administrative area of the institution receiving the insurance payments. If such
payments, which are not used to repair or replace institutional buildings, exceed
the total institutional indebtedness borne by all counties of the administrative
area, such excess funds shall remain to the credit of the institution and shall be
applied to the next succeeding plant fund budget until the excess funds shall be
expended. Funds received by the trustees of an institution for loss or damage to
the contents of buildings shall be divided between the board of trustees and the
State Board of Community Colleges in proportion to the value of the lost
contents owned by the board of trustees and the State, respectively. Until these
funds shall have been expended, they shall either be used for repair or
replacement of lost contents or be credited to the institution for succeeding
plant and current expense budgets as appropriate.

"§115D-52. Provision for disbursement of State money.—The deposit of
money in the State Treasury to the credit of the institution shall be made in
monthly installments, and additionally as necessary, at such time and in such
manner as may be convenient for the operation of the community college
system. Before an installment is credited, the institution shall certify to the
Department of Community Colleges, the expenditures to be made by the
institution from the State Current Fund during the month.

The Department of Community Colleges shall determine whether the
monies requisitioned are due the institution, and upon determining the amount
due, shall cause the requisite amount to be credited to the institution. Upon
receiving notice from the Department of Community Colleges that the amount
has been placed to the credit of the institution, the institution may issue State
warrants up to the amount so certified. Money in the State Current Fund and
other monies made available by the State Board of Community Colleges shall
be released only on warrants drawn on the State Treasurer, signed by two
officials of the institution designated for this purpose by the board of trustees.

"§115D-53. Provisions for disbursement of local money.—All local public
funds received by or credited to an institution shall be disbursed on checks
signed by the two officials of the institution who shall have been designated by
the board of trustees. The officials so designated shall countersign a check only
if the funds required by such check are within the amount of funds remaining to
the credit of the institution and are within the unencumbered balance of the
appropriation for the item of expenditure according to the approved budgets of
the institution. Each check shall be accompanied by an invoice, statement,
voucher, or other basic document which indicates, to the satisfaction of the
signing officials, that the issuance of such check is proper.

"§115D-54. Accounting system.—(a) Each institution shall establish and
maintain an accounting system consistent with procedures as prescribed by the
Department of Community Colleges and the State Auditor, which shows its
assets, liabilities, equities, revenues, and expenditures.

(b) Each institution shall be governed in its purchasing of all supplies,
equipment, and materials by contracts made by or with the approval of the
Purchase and Contract Division of the Department of Administration. No contract shall be made by any board of trustees for purchases unless provision has been made in the budget of the institution to provide payment thereof. In order to protect the State purchase contracts, it is the duty of the board of trustees and administrative officers of each institution to pay for such purchases promptly in accordance with the contract of purchase. Equipment shall be titled to the State Board of Community Colleges if derived from State or federal funds.

(c) The State Auditor shall be responsible for conducting annually an audit of the receipts, expenditures, and fiscal transactions of each institution in addition to any other power and duty currently or hereafter conferred on him by statute. He shall in the administration of this Article consult with and advise the State Board of Community Colleges on matters relating to the administration of the budgets and fiscal affairs of the community college system.

(d) The annual audits shall be completed as near to the close of the fiscal year as practicable and copies of each audit, inclusive of all accounts, shall be filed with the chairman of the board of trustees, the executive head of the institution, the chief fiscal officer of the institution, the county finance officer of each county of the administrative area, the State Board of Community Colleges and the chairman of the local government commission.

"§ 115D-55. Investment of idle cash.—(a) The institution may deposit at interest or invest all or part of the cash balance of any fund in an official depository of the institution. The institution shall manage investments subject to whatever restrictions and directions the board of trustees may impose. The institution shall have the power to purchase, sell, and exchange securities on behalf of the board of trustees. The investment program shall be so managed that investments and deposits can be converted into cash when needed.

(b) Monies may be deposited at interest in any bank or trust company in this State in the form of certificates of deposit or such other forms of time deposits as may be approved for county governments. Investment deposits shall be secured as provided in G.S. 159-31(b).

(c) Monies may be invested in the form of investments pursuant to G.S. 159-30(c) to county governments and no others. Money in endowment funds may be invested pursuant to G.S. 147-69.2. Provided, however, the institution may elect to deposit at interest any local funds with the State Treasurer for investment as special trust funds pursuant to the provisions of G.S. 147-69.3, and the interest thereon shall accrue to the institution as local funds.

(d) Investment securities may be bought, sold, and traded by private negotiation, and the institutions may pay all incidental costs thereof and all reasonable costs of administering the investment and deposit program from local funds. The institution shall be responsible for their safekeeping and for keeping accurate investment accounts and records.

(e) Interest earned on deposits and investments shall be credited to the fund whose cash is deposited or invested. Cash of several funds may be combined for deposit or investment if not otherwise prohibited by law; and when such joint deposits or investments are made, interest earned shall be prorated and credited to the various funds on the basis of the amounts thereof invested, figured according to an average periodic balance or some other sound accounting principle. Interest earned on the deposit or investment of bond funds shall be deemed a part of the bond proceeds.

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(f) Registered securities acquired for investment may be released from registration and transferred by signature of the official designated by the board of trustees.

"§ 115D-56. Selection of depository; deposits to be secured.—(a) Each board of trustees shall designate as the official depositories of the institution one or more banks or trust companies in this State. It shall be unlawful for any money belonging to an institution, other than monies required to be deposited with the State Treasurer, to be deposited in any place, bank, or trust company other than an official depository except as permitted in G.S. 115D-55(b). However, public monies may be deposited in official depositories in Negotiable Order of Withdrawal (NOW) accounts where permitted by applicable federal or State regulations.

(b) Money deposited in an official depository or deposited at interest pursuant to G.S. 115D-55(b) shall be secured in the manner prescribed in G.S. 159-31(b). When deposits are secured in accordance with this subsection, no public officer or employee may be held liable for any losses sustained by an institution because of the default or insolvency of the depository.

"§ 115D-57. Facsimile signatures.—The board of trustees may provide by appropriate resolution for the use of facsimile signature machines, signature stamps, or similar devices in signing checks and drafts. The board shall charge some bonded officer or employee with the custody of the necessary machines, stamps, plates, or other devices, and that person and the sureties on his official bond are liable for any illegal, improper, or unauthorized use of them. Rules and regulations governing the use and control of the facsimile signature shall be adopted by the State Board of Community Colleges.

"§ 115D-58. Daily deposits.—All monies regardless of source or purpose collected or received by an officer, employee, or agent of an institution shall be deposited intact in accordance with this section. Each officer, employee and agent of an institution whose duty it is to collect or receive any monies shall deposit his collections and receipts daily. If the board of trustees gives its approval, deposits may be required only when the monies on hand amount to as much as two hundred fifty dollars ($250.00), but in any event, a deposit shall be made on the last business day of the month. All deposits shall be made in an official depository. Tuition and all revenues declared by law to be State monies or otherwise required to be deposited with the State Treasurer shall be deposited pursuant to the rules of the State Treasurer pursuant to G.S. 147-77.

"§ 115D-58.1. Surety bonds.—The State Board of Community Colleges shall determine what State employees and employees of institutions shall give bonds for the protection of State funds and property and the State Board is authorized to place the bonds and pay the premiums thereon from State funds.

The board of trustees of each institution shall require all institutional employees authorized to draw or approve checks or vouchers drawn on local funds, and all persons authorized or permitted to receive institutional funds from whatever source, and all persons responsible for or authorized to handle institutional property, to be bonded by a surety company authorized to do business with the State in such amount as the board of trustees deems sufficient for the protection of such property and funds. The tax-levying authority of each institution shall provide the funds necessary for the payment of the premiums of such bonds.
"§ 115D-58.2. Fire and casualty insurance on institutional buildings and contents.—(a) The board of trustees of each institution, in order to safeguard the investment in institutional buildings and their contents, shall:

(1) Insure and keep insured each building owned by the institution to the extent of the current insurable value, as determined by the insured and insurer, against loss by fire, lightning, and the other perils embraced in extended coverage.

(2) Insure and keep insured equipment and other contents of all institutional buildings that are the property of the institution or the State or which are used in the operation of the institution.

(b) The tax-levying authority of each institution shall provide the funds necessary for the purchase of the insurance required in G.S. 115D-58.2(a).

(c) Boards of trustees may purchase insurance from companies duly licensed and authorized to sell insurance in this State or may obtain insurance in accordance with the provisions of Article 16, Chapter 115, of the General Statutes, 'State Insurance of Public School Property'.

"§ 115D-58.3. Liability insurance; tort actions against boards of trustees.—(a) Boards of trustees may purchase liability insurance only from companies duly licensed and authorized to sell insurance in this State. Each contract of insurance must, by its terms, adequately insure the board of trustees against any and all liability for any damages by reason of death or injury to person or property proximately caused by the negligence or torts of the agents and employees of such board of trustees or institution when acting within the scope of their authority or the course of their employment. Any company which enters into such a contract of insurance with a board of trustees by such act waives any defense based upon the governmental immunity of such board.

(b) Any person sustaining damages, or in case of death, his personal representative, may sue a board of trustees insured under this section for the recovery of such damages in any court of competent jurisdiction in this State, but only in a county of the administrative area of the institution against which the suit is brought; and it shall be no defense to any such action that the negligence or tort complained of was in pursuance of a governmental, municipal, or discretionary function of such board of trustees, to the extent that such board is insured as provided by this section.

(c) Nothing in this section shall be construed to deprive any board of trustees of any defense whatsoever to any action for damages, or to restrict, limit, or otherwise affect any such defense; and nothing in this section shall be construed to relieve any person sustaining damages or any personal representative of any decedent from any duty to give notice of such claim to the board of trustees or commence any civil action for the recovery of damages within the applicable period of time prescribed or limited by law.

(d) No part of the pleadings which relate to or allege facts as to a defendant's insurance against liability shall be read or mentioned in the presence of the trial jury in any action brought pursuant to this section. Liability shall not attach unless the plaintiff shall waive the right to have all issues of law and fact relating to insurance in such action determined by a jury, and such issues shall be heard and determined by the judge without resort to a jury, and the jury shall be absent during any motions, arguments, testimony, or announcements of findings of fact or conclusions of law with respect thereto, unless the defendant shall request jury trial thereon.
(e) The board of trustees of all institutions in this Chapter is authorized to pay as a necessary expense the lawful premiums of liability insurance provided in this section."

Sec. 2. G.S. 115D-31 is rewritten as follows:

"§ 115D-31. State financial support of institutions.—(a) The State Board of Community Colleges shall be responsible for providing, from sources available to the State Board, funds to meet the financial needs of institutions, as determined by policies and regulations of the State Board, for the following budget items:

(1) Plant Fund. Furniture and equipment for administrative and instructional purposes, library books, and other items of capital outlay approved by the State Board. Provided, the State Board may, on an equal matching-fund basis from appropriations made by the State for the purpose, grant funds to individual institutions for the purchase of land, construction and remodeling of institutional buildings determined by the State Board to be necessary for the instructional programs or administration of such institutions. For the purpose of determining amount of matching State funds, local funds shall include expenditures made prior to the enactment of this Chapter or prior to an institution becoming a community college or technical institute pursuant to the provisions of this Chapter, when such expenditures were made for the purchase of land, construction, and remodeling of institutional buildings subsequently determined by the State Board to be necessary as herein specified, and provided such local expenditures have not previously been used as the basis for obtaining matching State funds under the provisions of this Chapter or any other laws of the State.

(2) Current operating expenses:
   a. General administration. Salaries and other costs as determined by the State Board necessary to carry out the functions of general administration.
   b. Instructional services. Salaries and other costs as determined by the State Board necessary to carry out the functions of instructional services.
   c. Support services. Salaries and other costs as determined by the State Board necessary to carry out the functions of support services.

(3) Additional support for regional institutions as defined in G.S. 115D-2(4). Matching funds to be used with local funds to meet the financial needs of the regional institutions for the items set out in G.S. 115D-32(a)(2)a. Amount of matching funds to be provided by the State under this section shall be determined as follows: The population of the administrative area in which the regional institution is located shall be called the 'local factor', the combined populations of all other counties served by the institution shall be called the 'State factor'. When the budget for the items listed in G.S. 115D-32(a)(2)a. has been approved under the procedures set out in G.S. 115D-45, the administrative area in which the regional institution is located shall provide a percentage to be determined by dividing the local factor by the sum of the local factor and the State factor. The State shall provide a percentage of the necessary funds to meet this budget, the percentage to be determined by dividing the State factor by the sum of the local factor and the State.
factor. If the local administrative area provides less than its proportionate share, the amount of State funds provided shall be reduced by the same proportion as were the administrative area funds. Wherever the word 'population' is used in this subdivision, it shall mean the population of the particular area in accordance with the latest United States census.

(b) The State Board is authorized to accept, receive, use, or reallocate to the institutions any federal funds or aids that have been or may be appropriated by the government of the United States for the encouragement and improvement of any phase of the programs of the institutions."

Sec. 3. G.S. 115D-32 is rewritten as follows:

"§115D-32. Local financial support of institutions.—(a) The tax-levying authority of each institution shall be responsible for providing, in accordance with the provisions of G.S. 115D-33 or G.S. 115D-34, as appropriate, adequate funds to meet the financial needs of the institutions for the following budget items:

(1) Plant Fund. Acquisition of land; erection of all buildings; alterations and additions to buildings; purchase of automobiles, buses, trucks, and other motor vehicles; purchase or rental of all equipment necessary for the maintenance of buildings and grounds and operation of plants; and purchase of all furniture and equipment not provided for administrative and instructional purposes.

(2) Current expenses:
   a. Plant operation and maintenance:
      1. Salaries of janitors, maids, watchmen, maintenance and repair employees.
      2. Cost of fuel, water, power, and telephones.
      3. Cost of janitorial supplies and materials.
      5. Cost of maintenance and repairs of buildings and grounds.
      6. Maintenance and replacement of furniture and equipment provided from local funds.
      7. Maintenance of plant heating, electrical, and plumbing equipment.
      8. Maintenance of all other equipment, including motor vehicles, provided by local funds.
      10. Any other expenses necessary for plant operation and maintenance.
   b. Support services:
      1. Cost of insurance for buildings, contents, motor vehicles, workers' compensation for institutional employees paid from local funds, and other necessary insurance.
      2. Any tort claims awarded against the institution due to the negligence of the institutional employees.
      3. Cost of bonding institutional employees for the protection of local funds and property.
      4. Cost of elections held in accordance with G.S. 115D-33 and G.S. 115D-35.
      5. Legal fees incurred in connection with local administration and operation of the institution.
(b) The board of trustees of each institution may apply local public funds provided in accordance with G.S. 115D-33(a), as appropriate, or private funds, or both, to the supplementation of items of the current expense budget financed from State funds, provided a budget is submitted in accordance with G.S. 115D-45.

(c) The board of trustees of each institution may apply institutional funds provided in accordance with G.S. 115D-45(3) for such purposes as may be determined by the board of trustees of the institution.

Sec. 4. G.S. 115D-39 is amended on line 1 by deleting the word “may” and by substituting in lieu thereof the word “shall”.

Sec. 5. G.S. 115D is amended by adding the following new section:

“§ 115D-26. Conflict of interest.—All local trustees and employees of community colleges and technical institutes covered under this act must adhere to the conflict of interest provisions found in G.S. 14-236.”

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1981.

H. B. 245  CHAPTER 158

AN ACT TO EXTEND THE CORPORATE LIMITS OF THE TOWN OF BATH IN BEAUFORT COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 66, Private Laws of 1921, as amended by Chapter 67, Session Laws of 1949, is further amended by extending the town limits of the Town of Bath to incorporate within the Town the following described area:

All those waters of Bath Creek and Back Creek enclosed by a line running as follows:

“Beginning at that point where the northern boundary of the Town of Bath intersects the ordinary high water line of Bath Creek; thence on an extension of said northern boundary a distance of 300 feet out into the waters of Bath Creek; thence southward and southeastward running parallel with the ordinary high water line, 300 feet offshore, to that point where an extension of the eastern boundary of the Town of Bath intersects said line; thence continuing northeast, parallel with the ordinary high water line of Back Creek, 300 feet offshore, to a point in Back Creek about 425 feet southeast of that easternmost point where the eastern boundary of the Town of Bath intersects the ordinary high water line of Back Creek; thence about 425 feet northwest to said easternmost point of intersection of the eastern boundary of the Town of Bath and the ordinary high water line of Bath Creek.”

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1981.
The General Assembly of North Carolina enacts:

Section 1. Section 3.21 of the Charter of the City of Greensboro, as set forth in Section 12, Chapter 213 of the Session Laws of 1973 as amended by Section 1, Chapter 100 of the Session Laws of 1975, is amended by rewriting the entire section to read as follows:

"Section 3.21. Organizational meetings; oath of office.

The organizational meeting of the council shall be held as set forth under the requirements of G.S. 160A-68. At the organizational meeting, the newly elected mayor and members of the council shall qualify by taking the oath of office prescribed in Article VI, Section 7 of the Constitution. The council shall organize by the choice from its members of a mayor pro tem who shall hold office at the pleasure of the council."

Sec. 2. Section 3.22 of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137 of the Session Laws of 1959, is amended by repealing the last full sentence contained in subsection (a) and by substituting in lieu thereof the following sentence:

"In addition, the council shall comply with the public notice requirements as set forth in G.S. 143-318.12(b)."

Sec. 3. Chapter IV, Subchapter B, Article 1 of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137 of the Session Laws of 1959, and as further amended by subsequent Session Laws, is amended by adding a new section following Section 4.54 to read as follows:

"Section 4.55. Economic Development Projects.

(a) Definition. In this Article economic development project means an economic capital development project within a certain defined area or areas of the city as established by the city council, comprising of one or more buildings or other improvements and including any public and/or private facilities. Said project may include programs or facilities for improving downtown redevelopment, 'pocket of poverty' or other federal or State assistance programs which the city council determines to be in need of economic capital development or revitalization and which qualify for capital assistance under applicable federal or State programs.

(b) Authorization.

(1) In addition to any other authority granted by law, the City of Greensboro may accept grants, expend funds, make grants or loans, acquire property and participate in capital economic development projects which the city council determines will enhance the economic development and revitalization of the city in accordance with the authority granted herein. Such project may include both public and/or private buildings or facilities financed in whole or in part by federal or State grants (including but not limited to urban development action grants) and may include any capital expenditures which the city council finds necessary to comply with conditions in any federal or State grant agreements and which the city council finds will complement the project and improve the public tax base and general economy of the city.
By way of illustration, but not limitation, such a project may include the construction or renovation of any one or combination of the following projects:
(a) Privately owned hotel.
(b) Privately owned office building.
(c) Housing.
(d) Parking facilities.
Such project may be partially financed with city funds received from federal or State sources and being granted or loaned to the private owner for said construction or renovation; in addition, other city funds from any sources may be used for acquisition, construction, leasing and/or operation of facilities by the city for the general public and for capital improvements to public facilities which will support and enhance the private facilities and the general economy of the city.

(2) When the city council finds that it will promote the economic development or revitalization in the city, the city may acquire, construct, and operate or participate in the acquisition, construction, ownership and operation of an economic development project or of specific buildings or facilities within such a project and may comply with any State or federal government grant requirements in connection therewith. The city may enter into binding contracts with one or more private parties or governmental units with respect to acquiring, constructing, owning or operating such a project. Such a contract may, among other provisions, specify the responsibilities of the city and the developer or developers and operators or owners of the project, including the financing of the project. Such a contract may be entered into before the acquisition of any real property necessary to the project by the city or the developer or other parties.

(c) Property acquisition. An economic development project may be constructed on property acquired by the developer or developers, or on property directly acquired by the city, or on property acquired by the Redevelopment Commission while exercising the powers, duties and responsibilities pursuant to G.S. 160A-505.

(d) Property disposition. In connection with an economic development project, the city may convey interests in property owned by it, including air rights over public facilities, as follows:
(1) If the property was acquired under the urban redevelopment law, the property interests may be conveyed in accordance with said law.
(2) If the property was acquired by the city directly, the city may convey property interests by any procedure set forth in its city charter or the general law or, by private negotiation or sale.

(e) Construction of the project. A contract between the city and the developer or developers may provide that the developer or developers shall be responsible for the construction of the entire economic development project. If so, the contract shall include such provisions as the city council deems sufficient to assure that any public facilities included in the project meet the needs of the city and are constructed at a reasonable price. Any funds loaned by the city pursuant to this paragraph to a private developer or developers and used by said developer or developers in the construction of a project hereunder on privately owned property shall not be deemed to be an expenditure of public money.
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(f) Operation. The city may contract for the operation of any public facility or facilities included in an economic development project by a person, partnership, firm or corporation, public or private. In addition, the city, upon consideration, may contract through lease or otherwise whereby it may operate privately constructed parking facilities to serve the general public. Such a contract shall include provisions sufficient to assure that any such facility or facilities are operated for the benefit of the citizens of the city.”

Sec. 4. Section 4.111 of the Charter of the City of Greensboro, as originally set forth in Section 1, Chapter 1137 of the Session Laws of 1959 and as further amended by subsequent Session Laws, is amended by striking out the words and figures “twenty-five thousand dollars ($25,000.00)” as the same appears therein and by substituting in lieu thereof the words and figures “fifty thousand dollars ($50,000.00)”.

Sec. 5. Chapter IV, Subchapter D, Article 1 of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137 of the Session Laws of 1959 and as further amended by subsequent Session Laws, is amended by adding a new section following Section 4.112 to read as follows:

“Section 4.113. Minimum number of bids for construction contracts.

No contract to which G.S. 143-129 applies for construction or repairs shall be awarded on the first advertising thereof unless at least two competitive bids have been received from reputable and qualified contractors regularly engaged in their respective lines of endeavor.”

Sec. 6. Section 4.127 of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137 of the Session Laws of 1959 and as further amended by Section 9, Chapter 55 of the Session Laws of 1963, is amended by repealing subsection (a) in its entirety and by relettering subsection “(b)” to become subsection “(a)”.

Sec. 7. Section 7.03 of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137 of the Session Laws of 1959 and as further amended by subsequent Session Laws, is amended by striking out the words and figures “five thousand dollars ($5,000.00)” as the same appears twice therein and by substituting in lieu thereof the words and figures “ten thousand dollars ($10,000.00)” in both places.

Sec. 8. Section 7.21 of the Charter of the City of Greensboro, as originally set forth in Section 24, Chapter 686 of the Session Laws of 1961 and as further amended by subsequent Session Laws, is amended by striking out the words and figures “five thousand dollars ($5,000.00)” as the same appears therein and by substituting in lieu thereof the words and figures “ten thousand dollars ($10,000.00)”.

Sec. 9. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 10. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of April, 1981.

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H. B. 190  CHAPTER 160

AN ACT TO AMEND THE EMPLOYMENT SECURITY LAW TO
CONFORM WITH FEDERAL REQUIREMENTS, TO MAKE
TECHNICAL IMPROVEMENTS AND CORRECTIONS, AND TO
REMOVE OUTDATED AND INCONSISTENT PROVISIONS FROM THE
LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 96-4(m), as it appears in the 1979 Cumulative
Supplement to Volume 2C of the General Statutes, is amended on the forty-
seventh line by changing the word “appellee” to “appellant”.

Sec. 2. G.S. 96-5(c), as it appears in the 1979 Cumulative Supplement to
Volume 2C of the General Statutes, is amended by rewriting the fourth sentence to read as follows:

“Said fund shall be used by the Commission for the payment of costs and
charges of administration which are found by the Secretary of Labor not to be
proper and valid charges payable out of any funds in the Employment Security
Administration Fund received from any source and shall also be used by the
Commission for: (i) extensions, repairs, enlargements and improvements to
buildings, and the enhancement of the work environment in buildings used for
Commission business; (ii) the acquisition of real estate, buildings and equipment
required for the expeditious handling of Commission business; and (iii) the
temporary stabilization of federal funds cash flow.”

Sec. 3. G.S. 96-8(5)[l], as it appears in the 1979 Cumulative Supplement to
Volume 2C of the General Statutes, is amended: (1) by deleting the word
“means” in the second line; (2) rewriting the first line to read as follows: “Prior
to January 1, 1978,”; and (3) by adding the following paragraphs thereto:

“For purposes of this Chapter, ‘institution of higher education’ means an
educational institution in this State which: (i) admits as regular students only
individuals having a certificate of graduation from a high school or the
recognized equivalent of such certificate; (ii) is legally authorized in this State to
provide a program of education beyond high school; (iii) provides an educational
program for which it awards a bachelor’s or higher degree, or provides a
program which is acceptable for credit toward such a degree or a program of
training to prepare students for gainful employment in a recognized occupation;
(iv) is a public or other nonprofit institution; and (v) notwithstanding any of the
foregoing provisions of this subdivision, is a university, college, community
college, or technical institute in the State.

For purposes of this Chapter, ‘State hospital’ means any institution licensed
by the Department of Human Resources under Chapter 22 or Chapter 131 of
the General Statutes.”

Sec. 4. G.S. 96-8(5)[k], as it appears in the 1979 Cumulative Supplement
to Volume 2C of the General Statutes, is amended by deleting the quotation
marks and the word “employer” in the first line and the word “means” in the
second line.

Sec. 5. G.S. 96-8(5)[l]. is repealed.

Sec. 6. G.S. 96-8(5)[m]. is repealed.

Sec. 7. G.S. 96-8(5)[q], as it appears in the 1979 Cumulative Supplement
to Volume 2C of the General Statutes, is amended by adding the following at the end thereof:

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"For purposes of this Chapter, 'secondary school' means any school not an
institution of higher education as defined in G.S. 96-8(5)j."

Sec. 8. G.S. 96-8(10)a.1., as it appears in the 1979 Cumulative
Supplement to Volume 2C of the General Statutes, is amended by inserting the
words "because of lack of work" after the comma and before the word "during"
in the first line and by rewriting the last sentence to read as follows:
"If a benefit year is established, it shall begin on the Sunday preceding the
payroll week ending date."

Sec. 9. G.S. 96-8(10)b.2., as it appears in the 1979 Cumulative
Supplement to Volume 2C of the General Statutes, is amended by inserting the
words "because of lack of work" after the word "but" and before the word
"during" in the first line.

Sec. 10. G.S. 96-8(17)c., as it appears in the 1979 Cumulative
Supplement to Volume 2C of the General Statutes, is amended by adding the
following at the end thereof:
"As to claims filed on or after August 1, 1981, for claimants who do not have
a benefit year in progress, 'benefit year' shall mean the fifty-two week period
beginning with the first day of a week with respect to which an individual first
registers for work and files a valid claim for benefits. Provided, however, if the
first day of a week with respect to which an individual first registers for work
and files a valid claim for benefits is either (i) the first day of a calendar quarter,
or (ii) the second day of a calendar quarter followed by a February 29 within one
year thereof, 'benefit year' shall mean the one-year period beginning with that
first day of the week with respect to which the individual first registers for
work and files a valid claim for benefits. A valid claim shall be deemed to have
been filed only if such individual, at the time the claim is filed, is unemployed,
and has been paid wages in his base period totaling at least six times the average
weekly insured wage, obtained in accordance with G.S. 96-8(22) and equal to at
least one and one-half times his high-quarter wages, which high-quarter wages
must equal at least one and one-half times the average weekly insured wage,
obtained in accordance with G.S. 96-8(22)."

Sec. 11. G.S. 96-8(17)d. is repealed.

Sec. 12. G.S. 96-8(25) is repealed.

Sec. 13. G.S. 96-9(c)(2)b., as it appears in the 1979 Cumulative
Supplement to Volume 2C of the General Statutes, is amended by changing the
word "work" on the next to last line to the word "individual" and by changing
the period in the last line to a semicolon and adding the following at the end
thereof:
"provided, that such employer makes a written request for noncharging of
benefits in accordance with Commission regulations and procedures."

Sec. 14. G.S. 96-9(d)(2)c., as it appears in the 1979 Cumulative
Supplement to Volume 2C of the General Statutes, is rewritten to read:
"Benefits paid shall be charged to the employer's account in accordance with
G.S. 96-9(c)(2)a. and no benefits shall be noncharged except amounts equal to
fifty percent (50%) of extended benefits paid and amounts equal to one hundred
percent (100%) of benefits paid through error."

Sec. 15. G.S. 96-9(f)(4), as it appears in the 1979 Cumulative Supplement
to Volume 2C of the General Statutes, is amended by adding the following
immediately before the period: "except as provided in G.S. 96-9(d)(2)c."
Sec. 16. G.S. 96-10(g), as it appears in the 1979 Cumulative Supplement to Volume 2C of the General Statutes, is amended by rewriting the first paragraph thereof to read:

"Upon the motion of the Commission, any employer refusing to submit any report required under this Chapter, after 10 days' written notice sent by the Commission by registered or certified mail to the employer's last known address, may be enjoined by any court of competent jurisdiction from hiring and continuing in employment any employees until such report is properly submitted. When an execution has been returned to the Commission unsatisfied, and the employer, after 10 days' written notice sent by the Commission by registered mail to the employer's last known address, refuses to pay the contributions covered by the execution, such employer shall upon the motion of the Commission be enjoined by any court of competent jurisdiction from hiring and continuing in employment any employees until such contributions have been paid."

Sec. 17. G.S. 96-12(b)(1)c. is repealed.

Sec. 18. G.S. 96-12(b)(3) is repealed.

Sec. 19. G.S. 96-12(c), as it appears in the 1975 Replacement Volume 2C of the General Statutes, is rewritten to read as follows:

"Partial Weekly Benefit. Each eligible individual whose benefit year begins after December 31, 1977, who is 'partially unemployed' or 'part totally unemployed' as defined in G.S. 96-8(10)b. and c. respectively, and who files a valid claim, shall be paid benefits with respect to such week or weeks in an amount figured to the nearest multiple of one dollar ($1.00) which is equal to the difference between his weekly benefit amount and that part of the renumeration payable to him for such week which is in excess of ten percent (10%) of the average weekly wage in the high quarter of his base period."

Sec. 20. G.S. 96-12(e), as it appears in the 1979 Cumulative Supplement to Volume 2C of the General Statutes, is amended by adding a new subdivision "1." to read: "For weeks of unemployment beginning on or after June 1, 1981, a claimant who is filing an interstate claim under the interstate benefit payment plan shall be eligible for extended benefits for no more than two weeks when there is a State 'off' indicator in the state where the claimant files."

Sec. 21. G.S. 96-12(e)C.2., as it appears in the 1979 Cumulative Supplement to Volume 2C of the General Statutes, is amended by adding the following to the end thereof: "Provided, however, that for purposes of disqualification for extended benefits for weeks of unemployment beginning after March 31, 1981, the term 'suitable work' means any work which is within the individual's capabilities to perform if: (i) the gross average weekly remuneration payable for the work exceeds the sum of the individual's weekly extended benefit amount plus the amount, if any, of supplemental unemployment benefits (as defined in Section 501 (C) (17) (D) of the Internal Revenue Code of 1954) payable to such individual for such week; and (ii) the gross wages payable for the work equal the higher of the minimum wages provided by Section 6(a)(1) of the Fair Labor Standards Act of 1938 as amended (without regard to any exemption), or the State minimum wage; and (iii) the work is offered to the individual in writing and is listed with the State employment service; and (iv) the considerations contained in G.S. 96-14(3) for determining whether or not work is suitable are applied to the extent that they are not inconsistent with the specific requirements of this subdivision; and (v)
the individual cannot furnish evidence satisfactory to the Commission that his prospects for obtaining work in his customary occupation within a reasonably short period of time are good, but if the individual submits evidence which the Commission deems satisfactory for this purpose, the determination of whether or not work is suitable with respect to such individual shall be made in accordance with G.S. 96-14(3) without regard to the definition contained in this subdivision. Provided, further, that no work shall be deemed to be suitable work for an individual which does not accord with the labor standard provisions set forth in this subdivision, but the employment service shall refer any individual claiming extended benefits to any work which is deemed suitable hereunder. Provided, further, that any individual who has been disqualified for voluntarily leaving employment, being discharged for misconduct, or refusing suitable work under G.S. 96-14 and who has had the disqualification terminated, shall have such disqualification reinstated when claiming extended benefits unless the termination of the disqualification was based upon employment subsequent to the date of the disqualification.”

Sec. 22. G.S. 96-12(e)C., as it appears in the 1979 Cumulative Supplement to Volume 2C of the General Statutes, is amended by adding at the end thereof a new subdivision “3.” to read: “After March 31, 1981, he has not failed either to apply for or to accept an offer of suitable work, as defined in G.S. 96-12(e)C.2., to which he was referred by an employment office of the Commission, and he has furnished the Commission with tangible evidence that he has actively engaged in a systematic and sustained effort to find work. If an individual is found to be ineligible hereunder, he shall be ineligible beginning with the week in which he either failed to apply for or to accept the offer of suitable work or failed to furnish the Commission with tangible evidence that he has actively engaged in a systematic and sustained effort to find work and such individual shall continue to be ineligible for extended benefits until he has been employed in each of four subsequent weeks (whether or not consecutive) and has earned remuneration equal to not less that four times his weekly benefit amount.”

Sec. 23. G.S. 96-12(e)G., as it appears in the 1979 Cumulative Supplement to Volume 2C of the General Statutes, is amended: (1) in the first paragraph by changing the word “contributions” in the third and eighth lines to the word “taxes”, and (2) by rewriting the first sentence of the second paragraph to read as follows: “On and after January 1, 1978, the federal portion of any extended benefits shall not be charged to the account of any employer who pays taxes as required by this Chapter but the State portion of such extended benefits shall be charged to the account of such employer.”

Sec. 24. G.S. 96-13(a)(3), as it appears in the 1979 Cumulative Supplement to Volume 2C of the General Statutes, is amended by deleting all of the language and punctuation beginning with and including the word “Provided” on the twentieth line through the period on the thirtieth line.

Sec. 25. G.S. 96-13(b)(2), as it appears in the 1979 Cumulative Supplement to Volume 2C of the General Statutes, is amended in the fourteenth line by deleting the comma and inserting between the words “implied” and “to” the following language: “or a reasonable assurance”.

Sec. 26. G.S. 96-14(9), as it appears in the 1979 Cumulative Supplement to Volume 2C of the General Statutes, is amended by adding the following at the end thereof:
"The amount of benefits payable to an individual for any week which begins after July 1, 1981, and which begins in a period with respect to which such individual is receiving a governmental or other pension, retirement or retired pay, annuity, or other similar periodic payment which is based on the previous work of such individual shall be reduced (but not below zero) by the amounts of any such pension, retirement or retired pay, annuity, or other payment contributed to in part or in total by the individual's base period employers; provided, however, that the amount of all payments received by an individual under the Social Security Act and the Railroad Retirement Act shall be deducted from the individual's benefit amount."

Sec. 27. G.S. 96-15(b)(2), as it appears in the 1979 Cumulative Supplement to Volume 2C of the General Statutes, is rewritten to read:

"Adjudication. When a protest is made by the claimant to the initial or monetary determination, or a question or issue is raised or presented as to the eligibility of a claimant under G.S. 96-13, or whether any disqualification should be imposed under G.S. 96-14, or benefits denied or adjusted pursuant to G.S. 96-18, the matter shall be referred to an adjudicator. The adjudicator may consider any matter, document or statement deemed to be pertinent to the issues, including telephone conversations, and after such consideration shall render a conclusion as to the claimant's benefit entitlements. The adjudicator shall notify the claimant and all other interested parties of the conclusion reached. The conclusion of the adjudicator shall be deemed the final decision of the Commission unless within 10 days after the date of notification or mailing of the conclusion, whichever is earlier, an appeal is initiated. The Commission shall be deemed an interested party for such purposes and may remove to itself or transfer to an Appeals Referee the proceedings involving any claim pending before an adjudicator."

Sec. 28. G.S. 96-15(c), as it appears in the 1979 Cumulative Supplement to Volume 2C of the General Statutes, is amended: (1) by deleting the period and adding the following at the end of the second sentence: "or dismiss an appeal when the appellant fails to appear at the appeals hearing to prosecute the appeal after having been duly notified of the appeals hearing."); (2) by deleting the second "of" and first comma therein and inserting after the second comma and before the word "further" the following: "whichever is earlier.", (3) in the eleventh line by changing the word "finally" to the word "ultimately." and (4) by changing the last sentence therein to read as follows: "Whenever an appeal is taken from a decision of the Appeals Referee, the appealing party shall submit a clear written statement containing the grounds for the appeal within the time allowed by law for taking the appeal, and if such timely statement is not submitted, an Appeals Referee may dismiss the appeal."

Sec. 29. G.S. 96-15(f), as it appears in the 1979 Cumulative Supplement to Volume 2C of the General Statutes, is amended: (1) in the third and fourth lines by changing the word "rules" to the word "regulations" and (2) by changing the word "tribunal" in the last sentence to the word "referee."

Sec. 30. G.S. 96-15(h), as it appears in the 1975 Replacement Volume 2C of the General Statutes, is amended: (1) in the third line by inserting after the comma and before the word "and" the following: "whichever is earlier," and (2) by adding the following sentence at the end thereof: "If a notice of appeal is filed but not in a timely fashion, the Commission may dismiss the appeal."
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Sec. 31. G.S. 96-15(i), as it appears in the 1979 Cumulative Supplement to Volume 2C of the General Statutes, is amended: (1) by deleting the entire second sentence, (2) by rewriting the third sentence to read as follows: "If a timely notice of appeal has been filed as provided in G.S. 96-15(h), the appeal shall be filed and heard in the Superior Court of Wake County, unless the appellant objects in writing to such venue, after being afforded a reasonable opportunity to do so, in which case the appeal shall be transferred to the Superior Court in the county of the appellant’s residence or principal place of business.", (3) by inserting the following new sentence between the existing fifth and sixth sentences thereof: "If such statement is not filed in a timely fashion, the Commission may dismiss the appeal.", (4) on the eighteenth line by changing the language up to the period to read as follows: "from the time the appeal is perfected", and (5) by changing the word "it" before the comma in the twenty-first line to the word "them".

Sec. 32. G.S. 96-15(j), as it appears in the 1975 Replacement Volume 2C of the General Statutes, is amended: (1) in the second sentence by changing the word "his" to the following: "the individual's (2) in the third sentence by changing the word "deputy" to the word "adjudicator," by changing the word "tribunal" to the word "referee" and inserting after the word "Commission" and before the word "shall" the following: "or Deputy Commissioner".

Sec. 33. G.S. 96-18(g)(2), as it appears in the 1979 Cumulative Supplement to Volume 2C of the General Statutes, is amended by rewriting the last sentence to read: "No such recovery or recoupment of such sum may be initiated after three years from the last day of the year in which the overpayment occurred."

Sec. 34. This act is effective upon ratification, except Section 26 of this act which shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 1st day of April, 1981.

S. B. 94 CHAPTER 161
AN ACT TO ALLOW NONPROFIT RESCUE SQUADS TO APPLY FOR NUMBERS WITHOUT PAYMENT OF A FEE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 75A-5(a) as the same appears in the 1979 Cumulative Supplement Volume 2C of the North Carolina General Statutes is hereby amended on line 6 after the word "period" by inserting the following language:

"; provided, however, there shall be no fee charged for motorboats owned and operated by nonprofit rescue squads if they are operated exclusively for rescue purposes, including rescue training".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of April, 1981.
S. B. 110  CHAPTER 162
AN ACT TO AMEND G.S. 75A-7 TO EMPOWER THE WILDLIFE RESOURCES COMMISSION TO PERMIT THE VOLUNTARY NUMBERING OF MOTORBOATS OWNED BY A GOVERNMENTAL ENTITY AND THE ISSUANCE OF PERMANENT CERTIFICATES OF NUMBER TO MOTORBOATS OWNED BY GOVERNMENTAL ENTITIES AND NONPROFIT RESCUE SQUADS.

The General Assembly of North Carolina enacts:

Section 1. The text of G.S. 75A-7 is amended by designating the existing provision as subsection "(a)" and adding two new subsections as follows:

"(b) The Wildlife Resources Commission is hereby empowered to permit the voluntary numbering of motorboats owned by the United States, a state or a subdivision thereof.

(c) Those motorboats owned by the United States, a state or a subdivision thereof and those owned by nonprofit rescue squads may be assigned a certificate of number bearing no expiration date but which shall be stamped with the word 'permanent' and shall not be renewable so long as the vessel remains the property of the governmental entity or nonprofit rescue squad. If the ownership of any such boat is transferred from one governmental entity to another or to a nonprofit rescue squad or if a boat owned by a nonprofit rescue squad is transferred to another nonprofit rescue squad or governmental entity, a new permanent certificate may be issued without charge to the successor entity. When any such boat is sold to a private owner or is otherwise transferred to private ownership, the applicable certificate of number shall be deemed to have expired immediately prior to such transfer. Prior to further use on the waters of this State, the new owner shall obtain either a temporary certificate of number or a regular certificate pursuant to the provisions of this Chapter. The provisions of this subsection applicable to motorboats owned by nonprofit rescue squads apply only to those operated exclusively for rescue purposes, including rescue training."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of April, 1981.

H. B. 398  CHAPTER 163
AN ACT TO AUTHORIZE THE QUALIFIED VOTERS OF THE TOWN OF LAUREL PARK, HENDERSON COUNTY, TO DETERMINE WHETHER ALCOHOLIC BEVERAGE CONTROL STORES MAY BE OPERATED IN THE TOWN.

The General Assembly of North Carolina enacts:

Section 1. The governing body of the Town of Laurel Park shall call an election to be held on the question of whether alcoholic beverage control stores may be operated in that town. The governing body shall call the special election to be held on a date to be determined by the county board of elections, not more than 120 days after the governing body calls for the election. The Henderson County Board of Elections shall hold and conduct all elections under this act, and the cost of the special elections shall be paid from the general fund of the town.
Sec. 2. A new registration for voters for the election is not necessary, and all qualified voters who are properly registered prior to registration for the election and those who register for the election are entitled to vote in the election. Except as otherwise herein provided, if a special election is called, the special election authorized shall be conducted under the same statutes, rules, and regulations applicable to general elections for the Town of Laurel Park.

Sec. 3. There shall be submitted to the qualified voters of the Town of Laurel Park at the election the question of whether municipal alcoholic beverage control stores may be operated in that town, and if a majority of the votes cast in the election are for the operation of those stores, it shall be legal for alcoholic beverage control stores to be set up and operated in the town, but if a majority of the votes cast in the election are against alcoholic beverage control stores, no stores may be set up or operated in the Town of Laurel Park under the provisions of this act. In the election, a ballot shall be used upon which shall be printed on separate lines for each proposition, “For Alcoholic Beverage Control Stores”, “Against Alcoholic Beverage Control Stores”. Those favoring setting up and operating alcoholic beverage control stores in the town shall mark in the voting square to the left of the words, “For Alcoholic Beverage Control Stores”, printed on the ballot, and those opposed to alcoholic beverage control stores shall mark in the voting square to the left of the words “Against Alcoholic Beverage Control Stores”, printed on the ballot.

Sec. 4. If the operation of town alcoholic beverage control stores is authorized under the provisions of this act, the governing body of the town shall immediately create a town board of alcoholic beverage control, to be composed of a chairman and two other members who shall be well known for their good character, ability, and business acumen. The board shall be known and designated as the “Town of Laurel Park Board of Alcoholic Beverage Control”. The chairman of the board shall be designated by the governing body of the town and shall serve for his first term a period of three years. The other two members of the board of alcoholic beverage control shall be designated by the governing body of the town, and one member shall serve for his first term a period of two years, and the other member shall serve for his first term a period of one year; all terms shall begin with the date of appointment, and after the same term expires, successors in office shall serve for a period of three years. Their successors shall be named by the governing body of the town. Any vacancy shall be filled by the governing body of the town for the unexpired term.

Sec. 5. The Town of Laurel Park Board of Alcoholic Beverage Control shall have all the powers granted to and duties imposed upon county alcoholic control boards by G.S. 18A-17 and shall be subject to the powers and authority of the State Board of Alcoholic Control as stated in G.S. 18A-15, except that G.S. 18A-17(14) shall not apply to the Town of Laurel Park Board of Alcoholic Beverage Control. Whenever the term “county board of alcoholic control” appears in Chapter 18A, it shall be construed to include the Town of Laurel Park Board of Alcoholic Beverage Control.

Sec. 6. The town board of alcoholic beverage control shall, out of the gross revenue derived from the operation of alcoholic beverage control stores, pay all salaries, costs, and operating expenses and retain a sufficient and proper working capital, the amount thereof to be determined by the town board of alcoholic beverage control. The remaining revenue, as determined by quarterly
audit, shall be distributed quarterly by the town board of alcoholic beverage control to the general fund of the Town of Laurel Park. The town shall spend ten percent (10%) thereof for law enforcement in the town, pay twenty-five percent (25%) to the general fund of Henderson County, pay twelve percent (12%) to the Henderson County public schools, and pay one percent (1%) to the Henderson County Public Library. The town may use the remainder for any purpose for which tax and nontax revenue may be expended.

Sec. 7. Subsequent elections may be held as authorized in this section. At such an election if a majority of the votes are cast “Against Alcoholic Beverage Control Stores”, the town alcoholic beverage control board shall, within three months from the canvassing of the votes and the declaration of the results thereof, close the stores and shall thereafter cease to operate them. During this period, the town alcoholic beverage control board shall dispose of all alcoholic beverages on hand, all fixtures and all other property in the hands and under the control of the board, convert the same into cash, and deposit it in the general fund of the Town of Laurel Park. Thereafter, all public, local, and private laws applicable to the sale of intoxicating beverages within the Town of Laurel Park, in force and effect prior to the authorization to operate alcoholic beverage control stores, shall be in full force and effect the same as if the election had not been held, and until and unless another election is held under the provisions of this act in which a majority of the votes are cast “For Alcoholic Beverage Control Stores”. No election shall be called and held in the town under the provisions of this act within three years from the holding of the last election thereunder. The governing body of the Town of Laurel Park may order a subsequent alcoholic beverage control election on its own motion, and shall, within 60 days after a petition has been presented to the town’s governing body, filed and signed by at least twenty percent (20%) of the registered voters in the town who voted in the last election for the governing body of the town, order an election on the question of whether alcoholic beverage control stores shall be operated in the town.

Sec. 8. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1981.

H. B. 433 CHAPTER 164
AN ACT TO VALIDATE CERTAIN ACTS OF NOTARIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 10-12 is rewritten to read:

“§ 10-12. Acts of certain notaries prior to qualification and whose commissions have expired validated.—(a) All acknowledgements taken and other official acts done by any person who has heretofore been appointed or reappointed as a notary public, but who at the time of acting had failed to qualify as provided by law, shall, notwithstanding, be in all respects valid and sufficient; and property conveyed by instruments in which the acknowledgements were taken by such notary public are hereby validated and shall convey the properties therein purported to be conveyed as intended thereby.

(b) All acknowledgements taken and other official acts done by any person who has heretofore been appointed as a notary public, but whose commission
has expired at the time of acting, shall be in all respects valid and sufficient. Instruments conveying property acknowledged by this notary public are validated and convey the properties they purport to convey."

Sec. 2. G.S. 10-16.1 as it appears in the 1979 Cumulative Supplement to Volume 1B of the General Statutes is hereby reenacted.

Sec. 3. Nothing herein contained shall affect pending litigation.

Sec. 4. This act shall apply only to those acts performed on or before the effective date of this act.

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1981.

H. B. 444

CHAPTER 165

AN ACT TO AUTHORIZE THE QUALIFIED VOTERS OF THE TOWN OF ROSMAN, TRANSYLVANIA COUNTY, TO DETERMINE WHETHER ALCOHOLIC BEVERAGE CONTROL STORES MAY BE OPERATED IN THE TOWN.

The General Assembly of North Carolina enacts:

Section 1. The governing body of the Town of Rosman may call an election to be held on the question of whether alcoholic beverage control stores may be operated in that town. The governing body shall call the special election to be held on a date to be determined by the county board of elections, not more than 120 days after the governing body calls for the election. The Transylvania County Board of Elections shall hold and conduct all elections under this act, and the cost of the special elections shall be paid from the general fund of the town.

Sec. 2. A new registration for voters for the election is not necessary, and all qualified voters who are properly registered prior to registration for the election and those who register for the election are entitled to vote in the election. Except as otherwise herein provided, if a special election is called, the special election authorized shall be conducted under the same statutes, rules, and regulations applicable to general elections for the Town of Rosman.

Sec. 3. There shall be submitted to the qualified voters of the Town of Rosman at the election the question of whether municipal alcoholic beverage control stores may be operated in that town, and if a majority of the votes cast in the election are for the operation of those stores, it shall be legal for alcoholic beverage control stores to be set up and operated in the town, but if a majority of the votes cast in the election are against alcoholic beverage control stores, no stores may be set up or operated in the Town of Rosman under the provisions of this act. In the election, a ballot shall be used upon which shall be printed on separate lines for each proposition, "For Alcoholic Beverage Control Stores", "Against Alcoholic Beverage Control Stores". Those favoring setting up and operating alcoholic beverage control stores in the town shall mark in the voting square to the left of the words, "For Alcoholic Beverage Control Stores", printed on the ballot, and those opposed to alcoholic beverage control stores shall mark in the voting square to the left of the words "Against Alcoholic Beverage Control Stores", printed on the ballot.

Sec. 4. If the operation of town alcoholic beverage control stores is authorized under the provisions of this act, the governing body of the town
shall immediately create a town board of alcoholic beverage control, to be composed of a chairman and two other members who shall be well known for their good character, ability, and business acumen. The board shall be known and designated as the “Town of Rosman Board of Alcoholic Beverage Control”. The chairman of the board shall be designated by the governing body of the town and shall serve for his first term a period of three years. The other two members of the board of alcoholic beverage control shall be designated by the governing body of the town, and one member shall serve for his first term a period of two years, and the other member shall serve for his first term a period of one year; all terms shall begin with the date of appointment, and after the same term expires, successors in office shall serve for a period of three years. Their successors shall be named by the governing body of the town. Any vacancy shall be filled by the governing body of the town for the unexpired term.

Sec. 5. The Town of Rosman Board of Alcoholic Beverage Control shall have all the powers granted to and duties imposed upon county alcoholic control boards by G.S. 18A-17 and shall be subject to the powers and authority of the State Board of Alcoholic Control as stated in G.S. 18A-15, except that G.S. 18A-17(14) shall not apply to the Town of Rosman Board of Alcoholic Beverage Control. Whenever the term “county board of alcoholic control” appears in Chapter 18A, it shall be construed to include the Town of Rosman Board of Alcoholic Beverage Control.

Sec. 6. The town board of alcoholic beverage control shall, out of the gross revenue derived from the operation of alcoholic beverage control stores, pay all salaries, costs, and operating expenses and retain a sufficient and proper working capital, the amount thereof to be determined by the town board of alcoholic beverage control. The remaining revenue, as determined by quarterly audit, shall be distributed quarterly by the town board of alcoholic beverage control as follows:

i. Seventy-five percent (75%) to the Town of Rosman, to be deposited in the general fund of the town, which may be used for any lawful purpose for which other general fund expenditures may be made;

ii. Fifteen percent (15%) to the Board of Commissioners of Transylvania County, to be deposited to the general fund of the county, which may be used for any lawful purpose for which other general fund appropriations may be used;

iii. Ten percent (10%) to the Transylvania County Sheriff’s Department, to be used for law enforcement.

Sec. 7. Subsequent elections may be held as authorized in this section. At such an election if a majority of the votes are cast “Against Alcoholic Beverage Control Stores”, the town alcoholic beverage control board shall, within three months from the canvassing of the votes and the declaration of the results thereof, close the stores and shall thereafter cease to operate them. During this period, the town alcoholic beverage control board shall dispose of all alcoholic beverages on hand, all fixtures and all other property in the hands and under the control of the board, convert the same into cash, and deposit it in the general fund of the Town of Rosman. Thereafter, all public, local, and private laws applicable to the sale of intoxicating beverages within the Town of Rosman, in force and effect prior to the authorization to operate alcoholic beverage control stores, shall be in full force and effect the same as if the
election had not been held, and until and unless another election is held under the provisions of this act in which a majority of the votes are cast “For Alcoholic Beverage Control Stores”. No election shall be called and held in the town under the provisions of this act within three years from the holding of the last election thereunder. The governing body of the Town of Rosman may order a subsequent alcoholic beverage control election on its own motion, and shall, within 60 days after a petition has been presented to the town’s governing body, filed and signed by at least twenty percent (20%) of the registered voters in the town who voted in the last election for the governing body of the town, order an election on the question of whether alcoholic beverage control stores shall be operated in the town.

Sec. 8. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1981.

H. B. 458

CHAPTER 166

AN ACT TO INCREASE THE TORT CLAIM SETTLEMENT AUTHORITY OF THE ATTORNEY GENERAL FROM THREE THOUSAND DOLLARS TO FIVE THOUSAND DOLLARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-295(a) and (b), as the same appears in the 1979 Supplement to the 1978 Replacement Volume 3C of the General Statutes, is hereby amended by deleting in each place where they appear the words and figures “three thousand dollars ($3,000)” and substituting therefor the words and figures “five thousand dollars ($5,000)”.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1981.

H. B. 334

CHAPTER 167

AN ACT TO AMEND THE PROCEDURE FOR JUDICIAL REVIEW OF PUPIL ASSIGNMENT DECISIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-179 is hereby rewritten to read as follows:

“§ 115-179. Appeal from decision of board.—A final decision of the local board of education pursuant to G.S. 115-178 shall be subject to judicial review in the manner provided by Article 4, Chapter 150A of the General Statutes: Provided, notwithstanding the provisions of G.S. 150A-45, a person seeking judicial review under this section shall not appeal the final decision of the local board of education to any state board, but shall file a petition for review in the superior court of the county where the final decision of the local board of education was made. If the court determines that the final decision of the local board of education should be set aside, then the court, notwithstanding the provisions of G.S. 150A-51, may enter an order so providing and adjudging that such child is entitled to attend the school as claimed by the appellant, or such other school as the court may find such child is entitled to attend, and in such case such child shall be admitted to such school by the local board of education concerned.”
Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 2nd day of April, 1981.

H. B. 335  CHAPTER 168
AN ACT TO AMEND THE PROCEDURE FOR JUDICIAL REVIEW OF SCHOOL BUS ASSIGNMENT DECISIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-184(e) is hereby rewritten to read as follows:
"(e) A final decision of the local board of education pursuant to G.S. 115-184(d) shall be subject to judicial review in the manner provided by Article 4, Chapter 150A of the General Statutes: Provided, notwithstanding the provisions of G.S. 150A-45, a person seeking judicial review under this section shall not appeal the final decision of the local board of education to any State board, but shall file a petition for review in the superior court of the county where the final decision of the local board of education was made. If the court determines that the final decision of the local board of education should be set aside, then the court, notwithstanding the provisions of G.S. 150A-51, may enter an order so providing and adjudging that such child is entitled to the school bus assignment as claimed by the appellant, or such other school bus assignment as the court may find such child is entitled to, and in such case such child shall be assigned to such school bus by the local board of education concerned."

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 2nd day of April, 1981.

S. B. 164  CHAPTER 169
AN ACT TO PERMIT THE TRANSPORTATION OF SEED COTTON WITHOUT A COVERING ON THE VEHICLE.

The General Assembly of North Carolina enacts:

Section 1. The last sentence of G.S. 20-116(g) is amended by adding immediately after the word "transportation" the words "of seed cotton,"

Sec. 2. This act shall become effective July 1, 1981.
In the General Assembly read three times and ratified, this the 2nd day of April, 1981.

H. B. 54  CHAPTER 170
AN ACT TO PERMIT THE CITY OF NEW BERN TO CONSTRUCT, OPERATE, AND LEASE A MARINA.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 1281, Session Laws of 1957, is amended by adding the following new language immediately before the period in subdivision (5):
"; to construct and operate a marina or marinas on the waterfront of the city, after acquiring all permits required by State and federal law, and to lease the same upon such terms and conditions as shall be deemed desirable by the Board of Aldermen of the city".
Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 3rd day of April, 1981.

H. B. 422  CHAPTER 171
AN ACT TO PROVIDE FOR THE MEMBERSHIP OF THE BEECH MOUNTAIN SANITARY DISTRICT BOARD OF COMMISSIONERS.

Whereas, the Beech Mountain Sanitary District was created on September 13, 1978; and
Whereas, Sanitary District officials did not hold an election in November of 1979, as required by G.S. 163-279(c), passed by the 1971 General Assembly, but erroneously relied on G.S. 130-126, which appeared to call for an election in 1980; and
Whereas, it is in the general interest to resolve the legal problem; Now, therefore,
The General Assembly of North Carolina enacts:

Section 1. Until an election can be held in November of 1981, as required by G.S. 163-279(c), the composition of the Beech Mountain Sanitary District Board of Commissioners shall be:

<table>
<thead>
<tr>
<th>Name</th>
<th>County of Residence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reuben L. Mooradian</td>
<td>Watauga</td>
</tr>
<tr>
<td>James J. Hatch</td>
<td>Watauga</td>
</tr>
<tr>
<td>J. Dwight Perley</td>
<td>Watauga</td>
</tr>
<tr>
<td>Vernon T. Holland, Jr.</td>
<td>Watauga</td>
</tr>
<tr>
<td>W. Fred Pfohl</td>
<td>Avery</td>
</tr>
</tbody>
</table>

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 3rd day of April, 1981.

H. B. 452  CHAPTER 172
AN ACT TO ALLOW THE CONCORD CITY AND CABARRUS COUNTY BOARDS OF EDUCATION TO JOINTLY SET THE BOUNDARIES OF THE CONCORD CITY SCHOOL ADMINISTRATIVE UNIT.

The General Assembly of North Carolina enacts:

Section 1. The boundary lines of the Concord City School Administrative Unit are and shall be coterminous with the boundary lines of the City of Concord as they existed on March 1, 1981; provided that notwithstanding G.S. 115-77 or any other provision of Chapter 115 of the General Statutes, the boundary line between the Concord City School Administrative Unit and the Cabarrus County School Administrative Unit may be changed by joint agreement of the Concord City Board of Education and the Cabarrus County Board of Education.

Sec. 2. Chapter 1055, Session Laws of 1957, is repealed.
Sec. 3. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 3rd day of April, 1981.
H. B. 467

CHAPTER 173

AN ACT TO ALLOW THE WILKES COUNTY BOARD OF EDUCATION TO CONVEY A TRACT OF LAND.

The General Assembly of North Carolina enacts:

Section 1. The Wilkes County School Administrative Unit is hereby authorized to convey by good and sufficient deed its right, title and interest in and to part or all of the following described parcel of land, at private sale without monetary consideration and without complying with the provisions of G.S. 115-126(a), to the Oak Ridge Baptist Church:

"In Wilkes County, adjoining the lands of Mitchel Wood, A. Felts, C. W. Wiles, and others, beginning on a black gum in A. Felts line, running East 14 poles with A. Felts and Mitchel Woods line to a stake in the public road, then a North Westerly direction with the road 9 poles to a stake on the bank of the road, thence a South Westerly direction 10 poles to the beginning, containing seven-sixteenths of an acre, more or less."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1981.

H. B. 471

CHAPTER 174

AN ACT EXEMPTING FROM THE PROVISION OF ARTICLE 12, CHAPTER 160A, OF THE GENERAL STATUTES OF NORTH CAROLINA, THE COUNTY OF MADISON AS TO LEASES OR SALES OF REAL ESTATE OWNED, OR HEREAFTER OWNED BY IT, AS AN INDUSTRIAL PARK, OR FOR THE PURPOSES OF INDUSTRIAL DEVELOPMENT.

The General Assembly of North Carolina enacts:

Section 1. A county is exempt from all provisions, restrictions and limitations as to methods and procedures required to effectuate leases or sales of real estate provided for in Article 12, Chapter 160A, of the General Statutes of North Carolina, in connection with any lease or sale of real estate made by it, both as to real estate now owned or hereafter owned by it, as an Industrial Park, or for industrial development.

Sec. 2. This act is effective with respect to a sale or lease only if such sale or lease is given prior approval by a unanimous resolution of the Board of County Commissioners authorizing said lease or sale for the explicit purpose of industrial development and the amount of acreage is determined by the essential requirements of a particular type of industry. Such lease or sale shall be for cash. It is the intent hereof that leases and sales may be negotiated and consummated without further formality other than the required unanimous resolution by the County Board of Commissioners all on terms as negotiated.

Sec. 3. This act applies to Madison County only.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1981.
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H. B. 476  CHAPTER 175
AN ACT TO PROVIDE FOR STAGGERED FOUR-YEAR TERMS FOR THE ELKIN TOWN BOARD OF COMMISSIONERS IN 1981, AND INCREASE THE TERM OF THE MAYOR TO FOUR YEARS IN 1983, AND TO DELETE OBSOLETE CHARTER PROVISIONS.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 96, Session Laws of 1967 is rewritten to read:

“(a) At the regular municipal election in the Town of Elkin in 1981, there shall be elected a board of town commissioners consisting of five members. The three persons receiving the highest number of votes shall be elected to four-year terms. The two persons receiving the next highest number of votes shall be elected to two-year terms. In 1983 and quadrennially thereafter, two commissioners shall be elected for four-year terms. In 1985 and quadrennially thereafter, three commissioners shall be elected for four-year terms.

(b) At the regular municipal election in 1981, a mayor shall be elected for a two-year term. In 1983 and quadrennially thereafter, a mayor shall be elected for a four-year term.

(c) Elections in the Town of Elkin shall be conducted in accordance with Chapter 163 of the General Statutes, and the results determined by the plurality method as provided in G.S. 163-292.”

Sec. 2. Sections 2 and 3 of Chapter 96, Session Laws of 1967 are repealed.

Sec. 3. This act is effective beginning with the 1981 municipal election.

In the General Assembly read three times and ratified, this the 3rd day of April, 1981.

H. B. 500  CHAPTER 176
AN ACT TO ALLOW THE CITY OF KINSTON AND LENOIR COUNTY TO ACQUIRE LAND FOR INDUSTRIAL DEVELOPMENT AND DISPOSE OF SAME WITHOUT PUBLIC SALE.

The General Assembly of North Carolina enacts:

Section 1. Lenoir County and the City of Kinston are authorized to acquire real property for industrial development purposes, and in sale or lease of such real property for industrial development purposes are exempt from all provisions, restrictions and limitations required to effectuate leases or sales of real property provided for in Article 12 of Chapter 160A of the General Statutes or in the Charter of City of Kinston, as found in Chapter 92, Session Laws of 1961 as amended.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1981.

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H. B. 502  CHAPTER 177

AN ACT AUTHORIZING THE GREENSBORO CITY BOARD OF EDUCATION TO CONVEY CERTAIN REAL PROPERTY TO THE NORTH CAROLINA COACHES ASSOCIATION.

Whereas, the North Carolina Coaches Association is a nonprofit organization dedicated to encouraging close cooperation and better understanding among coaches, school administrators, the public, the press and game officials, and endeavoring to promote and improve athletics in North Carolina and to foster high standards of ethics and sportsmanship among coaches and participants; and

Whereas, in addition to other activities, the North Carolina Coaches Association has regularly sponsored an "All-Star" football and basketball game and Coaches' Clinic in the Greensboro community; and

Whereas, over a period of years there has existed a high degree of cooperation between the North Carolina Coaches Association and the Greensboro City Schools in facilitating both the All-Star Games and the Coaches' Clinic; and

Whereas, the Greensboro City Schools and the Greensboro City Board of Education desire to encourage the goals sought to be achieved by the North Carolina Coaches Association and desire to continue to facilitate the achievement of those goals by cooperation in every reasonable manner; and

Whereas, the North Carolina Coaches Association has expressed a desire to construct a headquarters and administrative building in the Greensboro community for the Association and from which the Association will conduct its endeavors and has expressed an interest and desire in locating this facility in the vicinity of the Robert B. Jamieson Stadium where the All-Star Football Games are regularly conducted; and

Whereas, the Greensboro City Board of Education has determined that there is suitable land available on the campus of Grimsley High School which property is located at the intersection of Westover Terrace and Campus Drive, and is a rectangular lot approximately 150 feet along Westover Terrace adjacent to E. C. Brooks School and approximately 180 feet along Campus Drive; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The Greensboro City Board of Education is hereby authorized to convey or lease to the North Carolina Coaches Association a rectangular parcel of real property presently owned by the Board of Education and located on the Grimsley High School campus, at the intersection of Westover Terrace and Campus Drive in the City of Greensboro, extending approximately 150 feet with the line of Westover Terrace and approximately 180 feet with the line of Campus Drive adjacent to the site of E. C. Brooks School, so that the North Carolina Coaches Association may construct a building upon said land in furtherance of its objectives in endeavoring to promote and improve athletics in North Carolina and to foster high standards of ethics and sportsmanship among coaches and participants. The Board of Education is authorized to dispose of this land in any manner the Board deems wise, with or without monetary consideration, and the conveyance or lease shall not be subject to the provisions of G.S. 115-126.

Sec. 2. This act is effective upon ratification.
CHAPTER 177    Session Laws—1981

In the General Assembly read three times and ratified, this the 3rd day of April, 1981.

S. B. 190    CHAPTER 178

AN ACT TO PROVIDE THAT THE BUNCOMBE COUNTY BOARD OF EDUCATION SHALL BE ELECTED IN THE FIRST PRIMARY BY A MODIFIED ELECTION AND RUNOFF METHOD.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 532, Session Laws of 1975 is amended by deleting the last sentence.

Sec. 2. Chapter 532, Session Laws of 1975 is amended by adding a new section to read:

"Sec. 1.1(a) Beginning with the 1982 primary election and biennially thereafter, each candidate elected in the primary election as herein provided for shall be elected for a term of four years. The election shall be held on the date of the primary election as determined by G.S. 163-1(b). The election shall be conducted under the nonpartisan election and runoff election method, and determined by a majority of the votes cast.

(b) A majority within the meaning of this section shall be determined as follows:

When more than one person is seeking election to a single office, the majority shall be ascertained by dividing the total vote cast for all candidates by two. Any excess of the sum so ascertained shall be a majority, and the candidate who obtains a majority shall be declared elected.

(c) If no candidate for a single office receives a majority of the votes cast, a runoff election shall be held as herein provided:

If no candidate for a single office receives a majority of the votes cast, a runoff election shall be held unless the candidate receiving the second highest number of votes withdraws under subsection (d) of this section. If such a request is made, then the candidate receiving the highest number of votes shall be declared elected. In the runoff election only the names of the two candidates who received the highest and next highest number of votes shall be printed on the ballot.

(d) The canvass of the first election shall be held on the Thursday after the election. If any candidate is entitled to withdraw under subsection (c) of this section he must do so by filing a written withdrawal with the board of elections no later than 12:00 noon on the Monday after the result of the first election has been officially declared.

(e) Tie votes; how determined:

(1) If there is a tie for the highest number of votes in a first election, the board of elections shall conduct a recount and declare the results. If the recount shows a tie vote, a runoff election between the two shall be held unless one of the candidates, within three days after the result of the recount has been officially declared, files a written notice of withdrawal with the board of elections. Should that be done, the remaining candidate shall be declared elected.

(2) If one candidate receives the highest number of votes cast in a first election, but short of a majority, and there is a tie between two or more of the other candidates receiving the second highest number of votes,
the board of elections shall declare the candidate having the highest number of votes to be elected, unless all but one of the tied candidates give written notice of withdrawal to the board of elections within three days after the result of the first election has been officially declared. If all but one of the tied candidates withdraw within the prescribed three-day period, a runoff election shall be held between the candidate who received the highest vote and the remaining candidate who received the second highest vote, unless the remaining candidate who received the second highest vote withdraws.

(f) Runoff elections shall be held on the date fixed in G.S. 163-111(e). The runoff election shall be held under the laws, rules, and regulations provided for the first election.

(g) A second runoff election shall not be held. The candidates receiving the highest number of votes in a runoff election shall be elected. If in a runoff election there is a tie for the highest number of votes between two candidates, the board of elections shall determine the winner by lot."

Sec. 3. The first two sentences of Section 4 of Chapter 532, Session Laws of 1975 are rewritten to read:

"The members representing the various districts on the Buncombe County Board of Education shall be residents of these said districts and shall file with the County Board of Elections of Buncombe County a notice of candidacy during the period prescribed by G.S. 163-106(c) which shall give the candidate's name, address, place of residence and a statement that he desires to be a candidate for membership on the said Buncombe County Board of Education for the district in which he resides. The election of said members of said board of education shall be by nonpartisan election. The Board of Elections of Buncombe County shall prepare a separate ballot for the election of said members which shall, among other things, contain the name of the candidate, the school district that he desires to represent and shall not contain any reference to party affiliation in any manner or form."

Sec. 4. Section 5 of Chapter 532, Session Laws of 1975 is amended by deleting the words "first Monday in December", and inserting in lieu thereof the words "first Monday in July".

Sec. 5. Section 7 of Chapter 532, Session Laws of 1975 is amended by deleting the words "and general".

Sec. 6. This act is effective upon ratification except that Section 4 shall become effective July 1, 1986.

In the General Assembly read three times and ratified, this the 3rd day of April, 1981.
The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-1340.4(a) is amended by deleting the third and fourth sentences and the lists of aggravating and mitigating factors, and inserting in lieu thereof the following:

"If the judge imposes a prison term, whether or not the term is suspended, and whether or not he sentences the convicted felon as a committed youthful offender, he must impose the presumptive term provided in this section unless, after consideration of aggravating or mitigating factors, or both, he decides to impose a longer or shorter term, or unless he imposes a prison term pursuant to any plea arrangement as to sentence under Article 58 of this Chapter. In imposing a prison term, the judge, under the procedures provided in G.S. 15A-1334(b), may consider any aggravating and mitigating factors that he finds are proved by the preponderance of the evidence, and that are reasonably related to the purposes of sentencing, whether or not such aggravating or mitigating factors are set forth herein, but unless he imposes the term pursuant to a plea arrangement as to sentence under Article 58 of this Chapter, he must consider each of the following aggravating and mitigating factors:

1. Aggravating factors:
   a. The defendant induced others to participate in the commission of the offense or occupied a position of leadership or dominance of other participants.
   b. The offense was committed for the purpose of avoiding or preventing a lawful arrest or effecting an escape from custody.
   c. The offense was committed for hire or pecuniary gain.
   d. The offense was committed to disrupt or hinder the lawful exercise of any governmental function or the enforcement of laws.
   e. The offense was committed against a present or former: law enforcement officer, employee of the Department of Correction, jailer, fireman, emergency medical technician, ambulance attendant, justice or judge, clerk or assistant or deputy clerk of court, magistrate, prosecutor, juror, or witness against the defendant, while engaged in the performance of his official duties or because of the exercise of his official duties.
   f. The offense was especially heinous, atrocious, or cruel.
   g. The defendant knowingly created a great risk of death to more than one person by means of a weapon or device which would normally be hazardous to the lives of more than one person.
   h. The defendant held public office at the time of the offense and the offense related to the conduct of the office.
   i. The defendant was armed with or used a deadly weapon at the time of the crime.
   j. The victim was very young, or very old, or mentally or physically infirm.
   k. The defendant committed the offense while on pretrial release on another felony charge.
   l. The defendant involved a person under the age of 16 in the commission of the crime."
m. The offense involved an attempted or actual taking of property of great monetary value or damage causing great monetary loss, or the offense involved an unusually large quantity of contraband.

n. The defendant took advantage of a position of trust or confidence to commit the offense.

o. The defendant has a prior conviction or convictions for criminal offenses punishable by more than 60 days' confinement. Such convictions include those occurring in North Carolina courts and courts of other states, the District of Columbia, and the United States, provided that any crime for which the defendant was convicted in a jurisdiction other than North Carolina would have been a crime if committed in this State. Such prior convictions do not include any crime that is joinable, under G.S. Chapter 15A, with the crime or crimes for which the defendant is currently being sentenced.

Evidence necessary to prove an element of the offense may not be used to prove any factor in aggravation, and the same item of evidence may not be used to prove more than one factor in aggravation.

The judge may not consider as an aggravating factor the fact that the defendant exercised his right to a jury trial.

(2) Mitigating factors:

a. The defendant has no record of criminal convictions or a record consisting solely of misdemeanors punishable by not more than 60 days' imprisonment.

b. The defendant committed the offense under duress, coercion, threat, or compulsion which was insufficient to constitute a defense but significantly reduced his culpability.

c. The defendant was a passive participant or played a minor role in the commission of the offense.

d. The defendant was suffering from a mental or physical condition that was insufficient to constitute a defense but significantly reduced his culpability for the offense.

e. The defendant's immaturity or his limited mental capacity at the time of commission of the offense significantly reduced his culpability for the offense.

f. The defendant has made substantial or full restitution to the victim.

g. The victim was more than 16 years of age and was a voluntary participant in the defendant's conduct or consented to it.

h. The defendant aided in the apprehension of another felon or testified truthfully on behalf of the prosecution in another prosecution of a felony.

i. The defendant acted under strong provocation, or the relationship between the defendant and the victim was otherwise extenuating.

j. The defendant could not reasonably foresee that his conduct would cause or threaten serious bodily harm or fear, or the defendant exercised caution to avoid such consequences.

k. The defendant reasonably believed that his conduct was legal.

l. Prior to arrest or at an early stage of the criminal process, the defendant voluntarily acknowledged wrongdoing in connection with the offense to a law enforcement officer.
m. The defendant has been a person of good character or has had a good reputation in the community in which he lives.

n. The defendant is a minor and has reliable supervision available."

Sec. 2. G.S. 15A-1340.4(b) is rewritten to read as follows:

"If the judge imposes a prison term for a felony that differs from the presumptive term provided in subsection (f), whether or not the term is suspended, and whether or not he sentences the convicted felon as a committed youthful offender, the judge must specifically list in the record each matter in aggravation or mitigation that he finds proved by a preponderance of the evidence. If he imposes a prison term that exceeds the presumptive term, he must find that the factors in aggravation outweigh the factors in mitigation, and if he imposes a prison term that is less than the presumptive term, he must find that the factors in mitigation outweigh the factors in aggravation. However, a judge need not make any findings regarding aggravating and mitigating factors if he imposes a prison term pursuant to any plea arrangement as to sentence under Article 58 of this Chapter, regardless of the length of the term, or if he imposes the presumptive term."

Sec. 3. G.S. 15A-1340.4(c), G.S. 15A-1340.4(d) and G.S. 15A-1340.4(g) are repealed.

Sec. 4. G.S. 15A-1340.4(e) is rewritten to read as follows:

"(e) A prior conviction may be proved by stipulation of the parties or by the original or a certified copy of the court record of the prior conviction. The original or certified copy of the court record, bearing the same name as that by which the defendant is charged, shall be prima facie evidence that the defendant named therein is the same as the defendant before the court, and shall be prima facie evidence of the facts set out therein. No prior conviction which occurred while the defendant was indigent may be considered in sentencing unless the defendant was represented by counsel or waived counsel with respect to that prior conviction. A defendant may make a motion to suppress evidence of a prior conviction pursuant to Article 53 of this Chapter. If the motion is made for the first time during the sentencing stage of the criminal action, either the State or the defendant is entitled to a continuance of the sentencing hearing."

Sec. 5. G.S. 15A-1340.4(f) is rewritten to read as follows:

"Unless otherwise specified by statute, presumptive prison terms for felonies classified under G.S. Chapter 14 and any other specific penalty statutes are as follows:

1. For a Class C felony, imprisonment for 15 years.
2. For a Class D felony, imprisonment for 12 years.
3. For a Class E felony, imprisonment for 9 years.
4. For a Class F felony, imprisonment for 6 years.
5. For a Class G felony, imprisonment for 4 1/2 years.
6. For a Class H felony, imprisonment for 3 years.
7. For a Class I felony, imprisonment for 2 years.
8. For a Class J felony, imprisonment for 1 year."

Sec. 6. G.S. 15A-1414(b)(4), as enacted by Chapter 760, Session Laws of 1979, is amended by adding thereto the following sentence:

"This motion must be addressed to the sentencing judge."
Sec. 7. G.S. 15A-1415(b)(8) is amended by the addition of the following sentence:

“However, a motion for appropriate relief on the grounds that the sentence imposed on the defendant is not supported by evidence introduced at the trial and sentencing hearing must be made before the sentencing judge.”

Sec. 8. G.S. 15A-1444(e) is amended by deleting the opening words “Except as provided in G.S. 15A-979” and inserting in lieu thereof “Except as provided in subsection (a1) of this section and G.S. 15A-979”.

Sec. 9. G.S. 15A-1444(a1), as enacted by Chapter 760, Session Laws of 1979, is rewritten to read as follows:

“A defendant who has been found guilty, or entered a plea of guilty or no contest to a felony, is entitled to appeal as a matter of right the issue of whether his sentence is supported by evidence introduced at the trial and sentencing hearing only if the prison term of the sentence exceeds the presumptive term set by G.S. 15A-1340.4, and if the judge was required to make findings as to aggravating or mitigating factors pursuant to this Article. Otherwise, he is not entitled to appeal this issue as a matter of right but may petition the appellate division for review of this issue by writ of certiorari.”

Sec. 10. Section 4 of Chapter 760 of the 1979 Session Laws is amended by deleting the following paragraph:

“Article 2A of Chapter 14 of the General Statutes pertaining to habitual felons, in the 1969 Replacement Volume 1B and the 1977 Cumulative Supplement, is repealed.”

Sec. 11. G.S. 14-7.2 is amended on the last line after the word “penalty” by inserting the words “or a life sentence”.

Sec. 12. G.S. 14-7.4 is amended by deleting the last sentence and inserting in lieu thereof the following sentence:

“A prior conviction may be proved by stipulation of the parties or by the original or a certified copy of the court record of the prior conviction. The original or certified copy of the court record, bearing the same name as that by which the defendant is charged, shall be prima facie evidence that the defendant named therein is the same as the defendant before the court, and shall be prima facie evidence of the facts set out therein.”

Sec. 13. G.S. 14-7.6 is rewritten to read as follows:

“§ 14-7.6. Sentencing of habitual felons.—When an habitual felon as defined in this Article shall commit any felony under the laws of the State of North Carolina, he must, upon conviction or plea of guilty under indictment as herein provided (except where the death penalty or a sentence of life imprisonment is imposed) be sentenced as a Class C felon. Notwithstanding any other provision of law, a person sentenced under this Article shall serve a term of not less than seven years in prison, excluding gain time granted under G.S. 148-13. A person sentenced under this Article shall receive a sentence of at least 14 years in the State’s prison and shall be entitled to credit for good behavior under G.S. 15A-1340.7. The sentencing judge may not suspend the sentence and may not place the person sentenced on probation. Sentences imposed under this Article shall run consecutively with and shall commence at the expiration of any sentence being served by the person sentenced hereunder.”

Sec. 14. Chapter 63 of the Session Laws of 1981 (H 275) is amended by deleting the date “April 15, 1981” in each instance where it appears in that act, and inserting in lieu thereof, in each instance, the date “July 1, 1981”.

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Sec. 15. This section and Section 14 of this act are effective on ratification. Sections 1 through 13 of this act shall become effective July 1, 1981, and shall apply to offenses committed on and after that date.

In the General Assembly read three times and ratified, this the 6th day of April, 1981.

H. B. 321    CHAPTER 180

AN ACT TO AMEND G.S. 14-33 TO PROVIDE INCREASED PUNISHMENT FOR AN ASSAULT ON SCHOOL PERSONNEL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-33(b) is amended by adding a new subdivision to read:

“(6) Assaults a school administrator, school teacher, substitute school teacher, or school teacher aide when any of these persons is discharging or attempting to discharge his official duties.”

Sec. 2. This act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 7th day of April, 1981.

S. B. 111    CHAPTER 181

AN ACT TO AMEND THE GENERAL STATUTES OF NORTH CAROLINA RELATING TO THE PROMOTION OF AGRICULTURE RESEARCH AND DISSEMINATION OF FINDINGS.

The General Assembly of North Carolina enacts:

Section 1. Article 50A of Chapter 106 is amended by deleting the language “five cents (5¢)” wherever it appears in G.S. 106-568.2 and G.S. 106-568.8 and substituting the language “ten cents (10¢)”.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of April, 1981.

H. B. 196    CHAPTER 182

AN ACT TO AMEND G.S. 50-6 TO PROVIDE THAT DIVORCE NOT AFFECT ALIMONY RIGHTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 50-6 is rewritten to read:

“§ 50-6. Divorce after separation of one year on application of either party.—Marriages may be dissolved and the parties thereto divorced from the bonds of matrimony on the application of either party, if and when the husband and wife have lived separate and apart for one year, and the plaintiff or defendant in the suit for divorce has resided in the State for a period of six months. This section shall be in addition to other acts and not construed as repealing other laws on the subject of divorce. A divorce under this section shall not be barred to either party by any defense or plea based upon any provision of G.S. 50-5 or G.S. 50-7, a plea of res judicata, or a plea of recrimination. Notwithstanding the provisions of G.S. 50-11, or of the common law, a divorce under this section shall not affect the rights of a dependent spouse with respect to alimony which have been asserted in the action or any other pending action.”

Sec. 2. This act shall be effective on October 1, 1981.
In the General Assembly read three times and ratified, this the 8th day of April, 1981.

H. B. 417  CHAPTER 183
AN ACT TO VALIDATE CERTAIN TRUSTEES’ DEEDS EXECUTED WITHOUT A SEAL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 45-20.1 is rewritten to read:
“§ 45-20.1. Validation of trustees’ deeds where seals omitted.—All deeds executed prior to January 1, 1981, by any trustee or substitute trustee in the exercise of the power of sale vested in him under any deed, deed of trust, mortgage, will, or other instrument in which the trustee or substitute trustee has omitted to affix his seal after his signature are validated.”

Sec. 2. G.S. 45-20.2 is repealed.

Sec. 3. This act does not affect pending litigation.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of April, 1981.

S. B. 253  CHAPTER 184
AN ACT TO AUTHORIZE SEPARATE DOMICILE FOR SPOUSE FOR PURPOSE OF VOTING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-57 is amended by adding a new subsection at the end thereof to read:
“(10) For the purpose of voting a spouse shall be eligible to establish a separate domicile.”

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of April, 1981.

S. B. 241  CHAPTER 185
AN ACT TO AMEND THE METROPOLITAN WATER DISTRICTS ACT TO CONFORM THE ELECTIONS FOR WATER AND SEWER SYSTEMS TO THE GENERAL ELECTION LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 162A-35 is amended by rewriting all of the section after the second paragraph, to read as follows:
“If, at or prior to such public hearing, there shall be filed with the district board a petition signed by not less than fifteen percent (15%) of the registered voters of the district requesting an election to be held on the question of including the political subdivision or unincorporated area in the district, the district board shall certify the petition and if found adequate, shall request the county board of elections to hold the election in the district. The election in the district may be held at the same time as the election in the political subdivision or unincorporated area seeking to become a part of the district.

The county board of elections shall give notice of the elections as required in G.S. 163-33(8) and shall conduct the election in the unincorporated area and
within the political subdivision unless there is a municipal board of elections which conducts the elections for the municipality.

The cost of the election in the district shall be paid by the district board and the cost of the municipal election by the municipality. The county shall pay the cost of an election in the unincorporated area. The governing body of the political subdivision shall file an accurate description of its boundaries, and those persons signing the petition for an unincorporated area shall file an accurate description of its boundaries with the board of elections at the time the petition is filed with the district board.

The elections shall be held and conducted in accordance with the applicable provisions of Articles 23 and 24 of Chapter 163 of the General Statutes.

The ballot shall contain the words:

'FOR inclusion in the _______ Metropolitan Water District of _______ County that area known as _______.'

'AGAINST inclusion in the _______ Metropolitan Water District of _______ County that area known as _______.'

If a majority of the votes cast in a political subdivision or unincorporated areas proposed to be included are in favor of inclusion, and a majority of the votes cast in the district favor inclusion, then from and after the date of the certification of the results such area or areas shall be a part of the district and subject to the debts of the district.

The results of the elections shall be certified to the district board.

If no election is required to be held in the district, then a favorable vote for inclusion in the political subdivision or unincorporated area shall be deemed to include such area or political subdivision as a part of the district and they shall be subject to the debts of the district.

No right of action or defense founded upon the invalidity of any such election shall be asserted, or open to question in any court upon any grounds unless the action or proceeding is commenced within 30 days after the results have been certified by the board of elections."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of April, 1981.

S. B. 243

CHAPTER 186

AN ACT TO CLARIFY THE ELECTION LAWS IN SANITARY DISTRICTS AND TO CONFORM TO THE GENERAL ELECTION LAWS FOR SPECIAL DISTRICTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-126 is rewritten to read:

"§ 130-126. Election and terms of office of sanitary districts.—(a) The Department of Human Resources shall send a copy of the resolution creating the sanitary district to the board or boards of county commissioners of the county or counties in which all or part of the district is located. The board or boards of commissioners shall hold a meeting or joint meeting for the purpose of electing the members of the sanitary district board who must be residents of the district.

(b) The sanitary district board shall be composed of either three or five members as the county commissioners in their discretion shall determine. The
members first appointed shall serve as the governing body of the sanitary district until the next regular election for municipal and special district officers as provided in G.S. 163-279, which occurs more than 90 days after their appointment. At that election, their successors shall be elected. The terms of the members shall be for two years or four years and may be staggered as determined by the board of county commissioners, so that some members are elected at each biennial election. The members of the sanitary district board shall be residents of the district. The board of county commissioners shall notify the county board of elections of any decision made under this subsection.

(c) The election shall be nonpartisan and decided by simple plurality as provided in G.S. 163-292 and shall be held and conducted by the county board of elections in accordance with the applicable provisions of Articles 23 and 24 of Chapter 163 of the General Statutes. If the district is in more than one county, then the county board of elections of the county wherein the largest part of the district is located shall conduct the election for the entire district with the assistance and full cooperation of the boards of elections in the other counties.

(d) The board of elections shall certify the results of the election to the clerk of superior court. The clerk of superior court is authorized and directed to take and file the oaths of office of the board members elected.

(e) The newly elected members of the sanitary board shall take the oath of office on the first Monday in December following their election and shall serve for the term elected and until their successors are elected and qualified.

Sec. 2. G.S. 130-127 is amended by deleting the words “general election” in line 3 and inserting the words “election for sanitary district board members”.

Sec. 3. G.S. 130-145 is amended by rewriting the second sentence to read:

“Upon receipt of such petition, the board of county commissioners, or boards of county commissioners if the district is located in more than one county, shall meet or meet jointly if more than one board, and adopt a resolution calling for an election on the question of removal and requesting the county board of elections to conduct the election for removal from office the members or member of the district named in the petition.”

Sec. 4. G.S. 130-147 is rewritten to read:

“§ 130-147. Returns of elections.—In all elections provided for in this Article, the board of elections shall file copies of the returns with the boards of county commissioners and clerk of superior court in which the district is located; and with the sanitary district board.”

Sec. 5. G.S. 130-148(a) is amended by deleting paragraphs 3, 4, 5, 6, 7, 8 and 9, and inserting in lieu thereof the following:

“The election shall be held by the county board of elections as soon as possible after the board of commissioners orders the election. The cost of the election shall be paid by the sanitary district. Registration in the area proposed for annexation shall be under the same procedure as G.S. 163-288.2. Notice of the election shall be given as required by G.S. 163-33(8), and shall include a statement that the boundary lines of the territory to be annexed and the boundary lines of the sanitary district have been prepared by the district board and may be examined. The notice shall also state that if a majority of the qualified voters voting in the election favor annexation, both in the area to be annexed and in the sanitary district if an election is held therein, then the territory annexed shall be subject to all debts of the sanitary district.
The ballot shall be substantially as follows:

‘FOR annexation to the ______ Sanitary District;

AGAINST

annexation to the ______ Sanitary District.’

If no election is held in the sanitary district, then upon majority favorable vote in the area to be annexed shall constitute the area a part of the district. If a vote is required in both the district and the area to be annexed, then upon a majority favorable vote for annexation in both areas shall constitute the area a part of the district.

The board of elections shall certify the results of the election to the sanitary district board and the boards of county commissioners in which the district is located.

No right of action or defense founded upon the invalidity of the election shall be asserted, nor shall the validity be open to question in any court upon any ground unless the action or proceeding is commenced within 30 days after the certification of the results by the county board of elections.”

Sec. 6. G.S. 130-149 is amended by deleting from the sixth paragraph the citation “G.S. 160-448” and inserting in lieu thereof “Chapter 163 of the General Statutes as may be applicable.”

Sec. 7. G.S. 130-156.2 is amended as follows:

(1) Insert in line 8 of subdivision (2) after the word “town” the words “after consultation with the appropriate boards of elections”;

(2) By deleting in lines 1 and 2 of subdivision (3), the words “board of commissioners of such county” and inserting in lieu thereof the words “boards of elections”;

(3) By rewriting subdivision (7) to read:

“(7) The board of county commissioners shall request the appropriate board of elections to hold and conduct the election. All qualified voters of the city and the sanitary district shall be eligible to vote if the election is called in both areas as authorized in subsection (1).”;

(4) By rewriting subdivision (8) to read:

“(8) Notice of the election shall be given as required in G.S. 163-33(8). The board of elections may, in its discretion, use either method of registration set out in G.S. 163-288.2 if it deems a special registration is desirable in the sanitary district or in the city or town.”

Sec. 8. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of April, 1981.

S. B. 249

CHAPTER 187

AN ACT TO AMEND CHAPTER 130, ARTICLE 21, OF THE GENERAL STATUTES RELATING TO POSTMORTEM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-46(e) is amended by deleting the phrase “Secretary of Human Resources” wherever it appears and by substituting the following phrase: “Chief Medical Examiner”.

Sec. 2. G.S. 130-197 is amended by deleting the phrase “Secretary of Human Resources” wherever it appears and by substituting the following phrase: “Chief Medical Examiner”.

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Sec. 3. G.S. 130-197 is further amended by deleting the fifth sentence and by substituting the following: "In the event no licensed doctor accepts an appointment as medical examiner in a county, the Chief Medical Examiner may appoint one or more acting medical examiners from among the following: the local registrar, his deputy registrar, or subregistrar. Any acting medical examiner shall complete a course of training in the functions of the office within three months after appointment."

Sec. 4. G.S. 130-197 is further amended by rewriting the last sentence to read: "In the event the medical examiner of any county, on account of illness or enforced absence or personal interest is unable to serve in any particular case or for a temporary period of time, the Chief Medical Examiner shall then designate some other qualified doctor of medicine in the county, or one or more of the following, to serve in the place of the regular medical examiner in making any examination or report required: the local registrar, his deputy registrar, or subregistrar."

Sec. 5. G.S. 130-199 is amended by deleting the phrase "Secretary of Human Resources" wherever it appears and by substituting the following phrase: "Chief Medical Examiner".

Sec. 6. G.S. 130-199 is further amended by deleting in the next to the last sentence the phrase "the Secretary" and by substituting the following phrase: "the Secretary of Human Resources".

Sec. 7. G.S. 130-200 is amended by deleting the phrase "Secretary of Human Resources" and by substituting the following phrase: "Chief Medical Examiner".

Sec. 8. G.S. 130-202 is amended by deleting the phrase "Secretary of Human Resources" wherever it appears and by substituting the following phrase: "Chief Medical Examiner".

Sec. 9. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of April, 1981.

S. B. 252

CHAPTER 188

AN ACT TO CONFORM MOSQUITO DISTRICT ELECTIONS TO THE GENERAL ELECTION LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-211(b) is amended by rewriting the third paragraph thereof to read:

"The Board of County Commissioners shall request the County Board of Elections to hold the election herein provided for and shall pay the expense of the election. The election shall be held in accordance with the applicable provisions of Chapter 163 of the General Statutes. Notice shall be given as provided in G.S. 163-33(8)."

Sec. 2. G.S. 130-211(c) is amended by rewriting all of the subsection beginning with the fifth sentence to read as follows:

"At the request of the Commission for Health Services, the county commissioners of the several counties in which the proposed district lies shall request the county board of elections to hold an election on the question in substantially the form of the ballot set forth in subsection (b) herein. Each county shall bear the expense of the election held therein. The board of
elections shall certify the results to the county commissioners and the Commission for Health Services. If a majority of the votes favor creation of the district and the levy of the special tax, the Commission for Health Services shall declare the district created and the county commissioners shall enter the certification upon the minutes of the board. Registration shall be in accordance with G.S. 163-288.2."

Sec. 3. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 9th day of April, 1981.

S. B. 255  CHAPTER 189
AN ACT TO AMEND THE ELECTION PROCEDURES FOR PUBLIC HOSPITALS TO CONFORM THE VARIOUS ELECTIONS THEREIN TO THE GENERAL ELECTION LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 131-4(2) is amended by rewriting the first paragraph thereof to read:

"(2) Election.—Upon the filing of such petition, the governing body of the county, township or town shall request the board of elections to hold an election on the question of a tax to be levied. Notice of the election shall be given as provided in G.S. 163-33(8) and the question shall be as set forth in G.S. 131-5. The notice shall state the amount of the tax to be levied upon the property."

Sec. 2. G.S. 131-5 is amended by deleting from lines 1 and 2 the words "The governing body" and inserting the words "The Board of Elections".

Sec. 3. G.S. 131-7 is amended by deleting the last two sentences and inserting the following new language in lieu thereof:

"The appointed trustees shall hold their office until the next election for municipal and district officers which is held more than 90 days after their appointment. At that election seven trustees shall be elected for staggered terms. The two trustees receiving the highest number of votes shall be elected for a term of six years, the two receiving the second highest number of votes shall be elected for a term of four years, and the three receiving the third highest number of votes, shall be elected for a term of two years. Thereafter, as their terms expire, trustees shall be elected for terms of six years. The election shall be nonpartisan and decided by simple plurality and shall be held as provided in G.S. 163-279(a)(1) and in accordance with the applicable provisions of Articles 23 and 24 of Chapter 163 of the General Statutes.

No practicing physician may serve as a trustee.

The terms of any members now serving on such board are hereby adjusted so that their successors shall be elected in odd-numbered years beginning in 1981. For example, those trustees whose terms would normally expire in 1982 shall expire in 1981, those who would expire in 1984 shall expire in 1983, etc."

Sec. 4. G.S. 131-39 is amended by deleting the first four sentences and inserting the following in lieu thereof:

"The board of commissioners for each county is authorized to request the county board of elections to hold an election to determine whether the qualified voters of the county approve or disapprove of a county tubercular hospital as authorized under this Article.

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The board of elections shall hold such election in accordance with the provisions of Chapter 163 of the General Statutes. The form of the ballot shall be:

‘☐ FOR County Tuberculosis Hospital.
‘☐ AGAINST County Tuberculosis Hospital’.”

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of April, 1981.

H. B. 197  CHAPTER 190
AN ACT TO AMEND NORTH CAROLINA G.S. 50-11(c) TO PROVIDE THAT DIVORCE NOT AFFECT ALIMONY RIGHTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 50-11(c) is rewritten to read as follows:

“§ 50-11(c). Except in case of divorce obtained with personal service on the defendant spouse, either within or without the State, upon the grounds of the adultery of the defendant spouse, a decree of absolute divorce shall not impair or destroy the right of a spouse to receive alimony and other rights provided for such spouse under any judgment or decree of a court rendered before or at the time of the rendering of the judgment for absolute divorce.”

Sec. 2. This act is effective on October 1, 1981.

In the General Assembly read three times and ratified, this the 9th day of April, 1981.

H. B. 416  CHAPTER 191
AN ACT TO VALIDATE CERTAIN CORPORATE DEEDS EXECUTED WITHOUT THE CORPORATE SEAL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 47-71.1 is amended by deleting the year “1975” and substituting the year “1981”.

Sec. 2. This act does not affect pending litigation.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of April, 1981.

H. B. 642  CHAPTER 192
AN ACT TO AUTHORIZE A REFERENDUM IN COLUMBUS COUNTY TO DETERMINE WHETHER THE COUNTY BOARD OF EDUCATION SHALL BE ELECTED AT THE TIME OF THE COUNTY PRIMARY OR GENERAL ELECTION; TO PROVIDE COMPENSATION FOR SAID BOARD; AND TO APPOINT FOUR MEMBERS TO THE WHITEVILLE CITY SCHOOL ADMINISTRATIVE UNIT BOARD.

The General Assembly of North Carolina enacts:

Section 1. The Columbus County Board of Elections shall hold a referendum on the date of the November 1982 general election and present to the voters of Columbus County the question of whether the election for members of the Columbus County Board of Education shall be held at the time of the county primary election or the general election, beginning in 1984.
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The question on the ballot shall be substantially as follows:
\(\square\) FOR holding the county school board election at the time of the county primary in May;
\(\square\) FOR holding the county school board election at the time of the county general election in November.

The issue receiving the largest number of votes shall be certified by the county board of elections to the county board of education and the clerk of superior court.

If the greatest number of votes is in favor of holding the election for the county board of education at the time of the regular primary, then the members of the board of education to be elected shall continue to be elected at the time of the regular primary.

If the greatest number of votes is in favor of holding the election for county board of education members at the time of the county general election, then the members to be elected shall be elected beginning with the general election in 1984.

Sec. 2. Only those qualified voters residing in the county school administrative district shall be eligible to vote in the referendum. The referendum shall be held pursuant to the applicable provisions of Chapter 163 of the General Statutes.

Sec. 3. The members of the Columbus County Board of Education shall by resolution fix their compensation, but the current compensation shall remain effective until the board adopts the resolution.

Sec. 4. Pursuant to Chapter 172, Session Laws of 1977, the following persons are hereby appointed to the Board of Education for the Whiteville City School Administrative Unit, and they shall serve for a term of two years beginning on the first Monday in April, 1981: Harry "Bobby" Jordan, Katie Powell, Donnie Graham, and Lewis S. Cokley.

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of April, 1981.

H. B. 277   CHAPTER 193

AN ACT TO AMEND CERTAIN PROVISIONS OF CHAPTER 62 OF THE GENERAL STATUTES, THE PUBLIC UTILITIES ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 62-67 is repealed.

Sec. 2. G.S. 62-79(b), as the same appears in the 1975 Replacement to Volume 2B of the General Statutes, is hereby amended by changing the semicolon on line 7 thereof to a period and deleting the following words:

"provided, upon filing of new, changed or additional rates, it shall not be necessary to obtain relief from an outstanding order of the Commission fixing rates except in the case of transportation rates where the rates have been in effect less than one year."

Sec. 3. G.S. 62-81(c), as the same appears in the 1979 Cumulative Supplement to the 1975 Replacement Volume 2B, is hereby amended by deleting on line 3 the phrase "one hundred thousand dollars ($100,000)" and inserting in lieu thereof the phrase "three hundred thousand dollars ($300,000)."

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Sec. 4. G.S. 62-262(d), as the same appears in the 1975 Replacement to Volume 2B of the General Statutes, is hereby amended by rewriting the fourth sentence thereof to read as follows:

"When no protest is filed with the Commission within the time herein limited, or as extended by order of the Commission, the Commission may proceed to decide the application on the basis of testimony taken at a hearing, or on the basis of information contained in the application and sworn affidavits, and make the necessary findings of fact and issue or decline to issue the certificate or permit applied for without further notice."

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1981.

H. B. 411 CHAPTER 194
AN ACT TO PROVIDE THAT THE MAYOR AND BOARD OF ALDERMEN OF THE TOWN OF ROBBINSVILLE BE ELECTED FOR FOUR-YEAR TERMS.

The General Assembly of North Carolina enacts:

Section 1. Section 4 of Chapter 214, Private Laws of 1911, as rewritten by Chapter 190, Private Laws of 1923, is amended by rewriting the second sentence to read:

"There shall be elected by and from the qualified voters of said town at the 1981 municipal election held under G.S. 163-279(a)(1) and quadrennially thereafter, a mayor and the three members of the Board of Aldermen, who shall qualify as provided in G.S. 160A-68 and shall hold office for a term of four years."

Sec. 2. This act shall become effective beginning with the 1981 municipal election.

In the General Assembly read three times and ratified, this the 13th day of April, 1981.

H. B. 428 CHAPTER 195
AN ACT TO AMEND THE 1973 SESSION LAWS, CHAPTER 1283, TO EMPOWER THE TOWN OF MATTHEWS WITH THE SAME ZONING AUTHORITY AS GRANTED MECKLENBURG COUNTY AND THE CITY OF CHARLOTTE.

The General Assembly of North Carolina enacts:

Section 1. 1973 Session Laws, Chapter 1283, is hereby amended by empowering and granting to the Town of Matthews the same zoning ordinance making power within its zoning jurisdiction as granted to the City of Charlotte and the County of Mecklenburg.

Sec. 2. This act shall apply to the Town of Matthews only.

Sec. 3. All laws and clauses of law in conflict with this act are hereby repealed.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1981.
H. B. 443  CHAPTER 196
AN ACT TO PROVIDE THAT THE SHERIFF ISSUE CURRITUCK COUNTY PISTOL PERMITS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 1073 of the 1959 Session Laws is amended in Section 4 by deleting the word “Currituck”.

Sec. 2. It is the intent and purpose of this act to provide that in Currituck County pistol permits shall be issued by the sheriff in that county.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1981.

H. B. 474  CHAPTER 197
AN ACT TO AMEND G.S. 130-275(a)(1) TO CLARIFY THE GROUNDS ON WHICH A PENALTY CAN BE LEVIED AGAINST A NURSING HOME.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-275(a)(1) is rewritten to read:

“(1) Which fails to comply with either the entire section of patients’ rights listed in G.S. 130-266 or with any of these rights, the failure to comply with which endangers the health, safety or welfare of a patient.”

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1981.

H. B. 539  CHAPTER 198
AN ACT TO REPEAL A LAW AUTHORIZING A REFERENDUM ON THE MERGER OF THE TOWNS OF WAYNESVILLE AND HAZELWOOD.

The General Assembly of North Carolina enacts:

Section 1. Chapter 882, Session Laws of 1959, is repealed.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1981.

S. B. 14  CHAPTER 199
AN ACT TO PROVIDE THAT WHEN A VACANCY OCCURS IN THE OFFICE OF SHERIFF OF BUNCOMBE COUNTY, AND CABARRUS, IREDELL AND YADKIN COUNTIES, THE APPOINTING AUTHORITY SHALL APPOINT THE PERSON RECOMMENDED BY THE COUNTY EXECUTIVE COMMITTEE OF THE PARTY FROM WHICH THE OFFICER WAS NOMINATED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 162-5 is rewritten to read:

“§ 162-5. Vacancy filled; duties performed by coroner or chief deputy.—If any vacancy occurs in the office of sheriff, the coroner of the county shall execute all process directed to the sheriff until the clerk of court shall elect a sheriff to supply the vacancy for the residue of the term, who shall possess the same qualifications, enter into the same bonds, and be subject to removal, as the
sheriff regularly elected. If the clerk should fail to fill such vacancy, the coroner shall continue to discharge the duties of sheriff until it shall be filled. If the sheriff was elected as a nominee of a political party, the clerk of superior court shall consult the county executive committee of that political party before filling the vacancy, and shall elect the person recommended by the county executive committee of that party, if the party makes a recommendation within 30 days of occurrence of the vacancy.

In those counties where the office of coroner has been abolished, the chief deputy sheriff, or if there is no chief deputy, then the senior deputy in years of service, shall perform all the duties of the sheriff until the clerk of superior court appoints some person to fill the unexpired term. In all counties the regular deputy sheriffs shall, during the interim of the vacancy, continue to perform their duties with full authority.”

Sec. 2. G.S. 162-3 is amended by deleting the word “board” the second time it appears and inserting in lieu thereof the words “clerk of superior court”.

Sec. 3. This act applies to Buncombe County and Cabarrus, Iredell and Yadkin Counties, only.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1981.

S. B. 212

CHAPTER 200

AN ACT TO AMEND G.S. 136-28.1 TO REQUIRE ALL CONTRACTS OVER THIRTY THOUSAND DOLLARS FOR HIGHWAY CONSTRUCTION OR REPAIR TO BE LET ON BIDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-28.1 is amended by deleting the words “ten thousand dollars ($10,000)” where they appear in subsections (a) and (b) and substituting the words “thirty thousand dollars ($30,000)”.

Sec. 2. G.S. 136-28.1 is further amended by rewriting the second sentence of subsection (b) to read:

“All such contracts shall be awarded to the lowest responsible bidder, taking into consideration quality, performance, and the time specified in the bids for the performance of the contract. The Secretary of Transportation shall keep a record of all bids submitted, which record shall be subject to public inspection at any time.”

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1981.
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S. B. 248  CHAPTER 201

AN ACT TO PROVIDE THAT THE GENERAL ASSEMBLY MAY PROVIDE IN AN ACT OF INCORPORATION THAT THE GOVERNING BOARD OF THE CITY MAY BE EX OFFICIO THE GOVERNING BOARD OF A PREEXISTING SANITARY DISTRICT, IF THE SANITARY DISTRICT APPROVES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 130 of the General Statutes is amended by adding a new section to read:

"§ 130-126.1. City governing body acting as sanitary district board.—(a) When the General Assembly incorporates a city or town that includes within its territory 50 percent or more of the territory of a sanitary district established pursuant to this Article, the General Assembly may provide in the incorporation act that the city or town governing body shall become ex officio the governing board of the sanitary district, if the existing sanitary district board adopts a resolution pursuant to this section. Such a resolution may be adopted at any time within the period beginning the day of ratification of the act incorporating the city or town and ending 270 days after the effective date of the incorporation act.

(b) To begin the process leading to the city or town board becoming ex officio the sanitary district board, the board of the sanitary district shall first adopt a preliminary resolution finding that the interests of the citizens of the sanitary district and of the city or town will be best served if both units of local government are governed by a single governing body. This resolution shall also set the date for a public hearing on the preliminary resolution.

(c) Upon adoption of this preliminary resolution, the chairman of the sanitary district board shall cause notice of the public hearing to be published once, at least 10 days before the hearing, in a newspaper of general circulation within the sanitary district. This notice shall set forth the time and place of the hearing and shall briefly describe its purpose. At the hearing, the board shall hear any citizen of the sanitary district or of the city or town who wishes to speak to the subject of the preliminary resolution.

(d) Within 30 days after the day of the public hearing, the sanitary district board may adopt a final resolution finding that the interests of the citizens of the sanitary district and of the city or town will be best served if both units are governed by a single board. This resolution shall set the date on which the terms of office of the members of the sanitary district board end and that board is dissolved and service by the ex officio board begins. This date may be the effective date of the incorporation of the city or town or any date within one year after the effective date. At that time, the sanitary district board is dissolved and the mayor and members of the governing body of the city or town become ex officio the board of the sanitary district. The mayor shall act ex officio as chairman of the sanitary district board.

(e) The chairman of the sanitary district board that adopts such a final resolution shall within 10 days after the day the resolution is adopted cause a copy of the resolution to be delivered to the mayor and each member of the city or town governing board and to the Commission for Health Services."

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 13th day of April, 1981.

S. B. 269  CHAPTER 202

AN ACT RELATING TO ZONING IN THE CITY OF ROCKY MOUNT.

The General Assembly of North Carolina enacts:

Section 1. The governing body of the City of Rocky Mount, in addition to the authority conferred upon it by the general or local law, is hereby empowered by ordinance to regulate in any portion or portions of the City of Rocky Mount within its existing zoning jurisdictions the use of buildings and structures for trade, industry, residence, recreation, public activities or other purposes, and the uses of land for trade, industry, residence, recreation, agriculture, water supply conservation, soil conservation, forestry or other purposes.

For any or all these purposes, the city may divide its territorial jurisdiction into districts of any number, shape, and area that may be deemed best suited to carry out the purposes of this act; and within those districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures, or land. All regulations shall be uniform for each class or kind of building throughout each district; provided, however, that the city and county may provide for the creation of special use districts in addition to general use districts.

It is the purpose and intent of this act to permit the city to create general use districts in which a variety of uses are permitted, and to also create special use districts in which a single use is permitted upon the issuance by the governing body of a special use permit prescribing the conditions under which such use will be permitted.

A person petitioning for rezoning of a tract of land, where special use districts are authorized by ordinance, may elect to request general use district zoning for said tract, or he may elect to request special use district zoning for said tract.

If the petitioner elects to petition for general use district zoning, the governing body may not consider the intended use in determining whether to approve or disapprove the petition, but shall consider the full range of uses permitted within the requested general use district. If the petition is approved, the rezoned property may be used for any of the uses permitted in the applicable general use district.

If the petitioner elects to petition for special use district zoning, the petition must specify the actual use intended for the property specified in the petition, and the intended use must be one permitted in the corresponding general use district. If the petition is for special use district zoning, the governing body is to approve or disapprove the petition on the basis of the specific use requested. If the petition is approved, the governing body shall issue a special use permit authorizing the requested use with such reasonable conditions as the governing body determines to be desirable in promoting public health, safety and general welfare.

The conditions contained in a special use permit issued by the governing body may include: location of the proposed use on the property; the number of dwelling units; the location and extent of support facilities such as parking lots,
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driveways, and access streets; location and extent of buffer areas and other special purpose areas; the timing of development; and such other matters as the governing body may find appropriate or the petitioner may propose, but not to include architectural review or controls.

It is the further intent of this section to permit the creation of districts for specific uses and the imposition of reasonable conditions in order to secure the public health, safety and welfare, and insure that substantial justice be done.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1981.

S. B. 80  CHAPTER 203
AN ACT TO VEST AUTHORITY IN THE MUSEUM OF NATURAL HISTORY FOR EXAMINATION OF REPTILES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-419 as it now appears in the 1969 Replacement Volume 1B of the General Statutes is rewritten to read:

"In any case in which any law enforcement officer or animal control officer has reasonable grounds to believe that any of the provisions of this Article have been or are about to be violated, it shall be the duty of such officer and he is hereby authorized, empowered, and directed to immediately investigate such violation or impending violation and to forthwith seize the reptile or reptiles involved, and all such officers are hereby authorized and directed to deliver such reptiles to the Museum of Natural History or to its designated representative for examination and test for the purpose of ascertaining whether said reptiles contain venom and are poisonous. If the Museum of Natural History or its designated representative finds that said reptiles are dangerously poisonous, the Museum of Natural History or its designated representative shall be empowered to dispose of said reptiles in a manner consistent with the safety of the public; but if said Museum or its designated representative finds that the reptiles are not dangerously poisonous, and are not and cannot be harmful to human life, safety, health or welfare, then it shall be the duty of such officers to return the said reptiles to the person from whom they were seized within five days."

Sec. 2. G.S. 14-420 as it now appears in the 1969 Replacement Volume 1B of the General Statutes is amended by deleting the words "county health or other qualified authorities" in line 2 and substituting therefor the words "Museum of Natural History or its designated representative".

Sec. 3. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 13th day of April, 1981.
S. B. 231  

CHAPTER 204
AN ACT TO ALLOW HERTFORD COUNTY TO ESTABLISH PRECINCTS WITHOUT REGARD TO TOWNSHIP BOUNDARIES.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of G.S. 163-128, a county board of elections may divide a county into precincts without regard to township boundaries.

Sec. 2. This act applies to Hertford County only.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1981.

H. B. 242  

CHAPTER 205
AN ACT TO MAKE STUDENTS IN THE DEPARTMENT OF HUMAN RESOURCES INSTITUTIONS ELIGIBLE FOR REMEDIATION FUNDS FOR STUDENTS WHO FAIL THE COMPETENCY TEST.

Whereas, funds have been appropriated to the Department of Public Education for remediation support for students in local school systems who fail the high school competency test; and

Whereas, those funds are presently not available for students in institutions administered by the Department of Human Resources who fail the test; and

Whereas, the Department of Human Resources and Department of Public Education agree that students in the Schools for the Deaf, Governor Morehead School and Division of Youth Services Schools should be equally eligible for remediation funds; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Article 39A of Chapter 115 of the General Statutes is amended by adding a new section to read as follows:

"§ 115-320.14. Remediation funds.—Funds appropriated for the purpose of remediation support for students who fail the high school competency test shall be distributed in accord with rules and regulations promulgated by the State Board of Education. The State Board of Education shall allocate remediation funds to institutions administered by the Department of Human Resources on the same basis as funds allocated to other local education agencies."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1981.
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H. B. 429  CHAPTER 206
AN ACT TO INCORPORATE THE TOWN OF KITTY HAWK IN DARE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The Town of Kitty Hawk, as described in Section 2 of this act, is incorporated.

Sec. 2. The Charter of the Town of Kitty Hawk is as follows:

"CHAPTER I.

"Incorporation and Corporate Powers.

"Sec. 1-1. Incorporation and corporate powers.—The inhabitants of the Town of Kitty Hawk are a body corporate and politic under the name of the "Town of Kitty Hawk". Under that name they have all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general laws of North Carolina.

"CHAPTER II.

"Corporate Boundaries.

"Article I. Town Boundaries.

"Sec. 2-1. Town boundaries.—Until modified in accordance with law, the boundaries of the Town of Kitty Hawk are as follows:

' Bounded on the south by the northernmost corporate limits of the Town of Kill Devil Hills, on the east by the Atlantic Ocean, on the north by the southernmost corporate limits of the town of Southern Shores and the north line of U. S. Highway 158, and on the west by Currituck Sound and Kitty Hawk Bay, including the areas known as Kitty Hawk Beach, Kitty Hawk Village, Seascape and Kitty Hawk Woods and being all the land area lying between the incorporated Towns of Kill Devil Hills and Southern Shores, except Martin's Point and the property of the Outer Banks Recreation Association, sometimes known as Duck Woods Golf Course.'

"CHAPTER III.

"Governing Body.

"Sec. 3-1. Structure of governing body; number of members.—The governing body of the Town of Kitty Hawk is the Town Council, which has five members.

"Sec. 3-2. Manner of election of Town Council.—The qualified voters of the entire Town of Kitty Hawk shall elect the members of the Town Council.

"Sec. 3-3. Term of office of the members of Town Council.—Members of the Town Council are elected to four-year terms. In 1981 all five members of the Town Council shall be elected, three for four years and two for two years, the three candidates receiving the highest number of votes to serve for four years and the two candidates who receive the next largest number of votes to serve for two years. In 1983 and quadrennially thereafter, two members shall be elected. In 1985 and quadrennially thereafter, three members shall be elected.

"Sec. 3-4. Election of Mayor; term of office.—At the organizational meeting of the Town Council following each election, the Town Council shall elect one of its members to serve as Mayor. The Mayor shall serve as such at the pleasure of the Town Council.

"Sec. 3-5. Appointment of initial Town Council and Mayor.—Paul W. Parker, David P. Pruitt, Jr., Samuel O. Smith, Carlton P. Smith, and Sidney C. Toler are hereby appointed members of the Town Council to serve until their
successors are elected in the 1981 election. Paul W. Parker is appointed Mayor of the Town of Kitty Hawk to serve until his successor is elected at the organizational meeting of the Town Council following the 1981 election of Town Council members.

"CHAPTER IV.

"Elections.

"Sec. 4-1. Conduct of Town elections.—Town officers shall be elected on a nonpartisan basis and the results determined by a plurality of the votes cast, as provided by G.S. 163-292.

"CHAPTER V.

"Administration.

"Sec. 5-1. Town to operate under Mayor-Council Plan.—The Town of Kitty Hawk operates under the mayor-council plan as provided in Part 3 of Article 7 of Chapter 160A of the General Statutes.

"CHAPTER VI.

"Planning and Regulatory Powers.

"Sec. 6-1. Extraterritorial jurisdiction.—The Town of Kitty Hawk may exercise those powers granted by G.S. 160A, Article 19, within a defined area extending not more than one mile beyond its limits.

"CHAPTER VII.

"Modifications of the Special Assessments Laws.

"Sec. 7-1. Petition unnecessary.—In addition to the authority as is now or may hereafter be granted to the Town for making street or sidewalk improvements, the Town Council is hereby authorized to order such improvements and to assess the total cost thereof against abutting properties without the necessity of a petition of property owners.

"Sec. 7-2. Sidewalk repairs.—The Town Council is further authorized to order or to make sidewalk repairs and driveway repairs across sidewalks according to standards and specifications of the Town, and to assess the total cost thereof against abutting properties without the necessity of a petition of property owners.

"Sec. 7-3. Sidewalk on one side of street.—If a sidewalk is constructed on only one side of the street in a residential zone, the cost thereof may be assessed against the property abutting on both sides of the street, unless there already exists a sidewalk on the other side of the street, the total cost of which was assessed against the abutting property.

"Sec. 7-4. Notice to property owners.—Before the Town Council shall order improvements to be made pursuant to Sections 7-1 or 7-2 of this Chapter it shall hold a public hearing thereon, and shall give the owners of the property to be assessed written notice of such public hearing and the proposed action.

"Sec. 7-5. Assessment procedure and effect.—In ordering street or sidewalk improvements or sidewalk repairs and assessing the cost thereof, the Town Council shall follow the procedures provided by the General Statutes for street and sidewalk improvements, except those provisions relating to the petition of property owners and the sufficiency thereof. The effect of levying assessments pursuant to this act shall for all purposes be the same as if they were levied under authority of the General Statutes.
"Sec. 7-6. **Duty of maintenance for driveways and sidewalks.**—It is the duty of every property owner to maintain the sidewalks and driveways abutting his property in good repair and safe condition.

"Sec. 7-7. **Payment of assessments.**—Any special assessment of the Town for any purpose amounting to less than one hundred dollars ($100.00) shall be paid in cash within 90 days of confirmation rather than in annual installments, and shall bear interest as taxes.

"Sec. 7-8. **Assessment where street is Town limit line.**—In those instances where the Town limit line runs along a street or road the Town Council may order the improvements and assess the cost thereof against property abutting on both sides of the street as if all the abutting property were within the corporate limits, regardless of whether the improvement is ordered pursuant to this section or other general laws.

"Sec. 7-9. **Supplementary authorization.**—The procedure herein outlined shall be supplementary to all other procedure authorized by law relating to improvements or special assessments.

"CHAPTER VIII.

"Taxation for Fiscal Year 1980-81.

"Sec. 8-1. **Budget for fiscal year 1980-81.**—The newly incorporated Town of Kitty Hawk in Dare County is authorized to adopt a budget and levy property taxes for the portion of the 1980-81 fiscal year during which it is incorporated. In adopting the budget and levying taxes late in the fiscal year 1980-81, the Town’s governing body need not follow the schedule of action set forth in The Local Government Budget Fiscal and Control Act, but shall observe the sequence of actions in the spirit of the act insofar as is practical.

"Sec. 8-2. **Property taxes for fiscal year 1980-81.**—Property taxes as levied by the Town of Kitty Hawk as authorized in Section 8-1 of this Chapter shall be due and collected as provided in G.S. 160A-58.10 in the case of taxes levied for part of the year following annexation."

Sec. 3. Severability clause. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be invalid such decision shall not affect the validity of the remaining portions thereof.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1981.

**H. B. 469 CHAPTER 207**

**AN ACT TO EXEMPT LITTER MATERIALS FROM THE SALES TAX.**

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.13(2) is amended by inserting the words “litter materials,” between the words “medications” and “and” on the first line thereof.

Sec. 2. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 13th day of April, 1981.
H. B. 478  

CHAPTER 208  

AN ACT TO ANNEX A DESCRIBED AREA TO THE TOWN OF COLUMBUS IN POLK COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The corporate limits of the Town of Columbus are hereby extended to include therein the following contiguous tract of land:

"BEGINNING on a concrete monument in the eastern margin of Holly Hill Drive, said monument being at the most westerly point, and the terminus of the seventh call in the metes and bounds description contained in a 'Petition to Annex by Ordinance an Area Contiguous to the Boundaries of the Town of Columbus', dated July 28, 1976, which petition did change the Town Limits of Columbus to include an area known as 'Poppy Slopes Development', and running from said beginning point North 87 degrees 03 minutes West (crossing the median of Interstate Highway 26 at 1135 feet) 3845 feet to a concrete monument in the west boundary of the St. Luke's Hospital tract, said monument being the terminus of the fourth call in a conveyance from St. Luke's Hospital, Inc., to Polk County, dated January 9, 1969 and recorded in Book 147, Page 29, Polk County Registry; thence North 35 degrees 07 minutes West (crossing the center line of North Carolina Highway 108 at 1075 feet) 3010 feet to an iron pin marking the most westerly point in the Jackson N. Walker, et al property, said iron pin also being the terminus of the ninth call in a conveyance from W. L. Hague, et al to Jackson N. Walker, et al., dated August 9, 1977 and recorded in Book 167, Page 1394, Polk County Registry; thence North 46 degrees 33 minutes East 3273 feet to a point near the intersection of Interstate Highway 1-26 and U.S. Highway 74, which marks the present most westerly point in the corporate limits of the Town of Columbus; thence with the present corporate limits of Columbus as follows: South 44 degrees 30 minutes East 2635 feet to a concrete monument in the east margin of N.C. Highway 108, said monument also being the most westerly point in the tract conveyed to Harold Burrell from Gulf Oil Corp., by deed dated June 20, 1977 and recorded in Book 167, Page 678, Polk County Registry; thence with the right of way of Interstate Highway 26, 2632 feet to an iron pin marking the southwest corner of the property conveyed from David W. and Jean Kearney Robinson to Charles O. Feagan, dated July 7, 1964 and recorded in Book 131 at Page 180, Polk County Registry; thence leaving Interstate-26 right of way and running with the Feagan property South 54 degrees 50 minutes East 1124 feet to the point of BEGINNING."

Sec. 2. This act shall become effective June 30, 1981.

In the General Assembly read three times and ratified, this the 13th day of April, 1981.
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H. B. 486  CHAPTER 209

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF FOREST CITY AND TO REPEAL PRIOR LOCAL ACTS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Forest City is hereby revised and consolidated to read as follows:

"THE CHARTER OF THE TOWN OF FOREST CITY.

"ARTICLE I.

"INCORPORATION, CORPORATE POWERS AND BOUNDARIES.

"Sec. 1.1. Incorporation.—The Town of Forest City, North Carolina, in the County of Rutherford, and the inhabitants thereof, shall continue to be a municipal body politic and corporate, under the name and style of the 'Town of Forest City', hereinafter at times referred to as the 'Town'.

"Sec. 1.2. Powers.—The Town of Forest City shall have and may exercise all of the powers, duties, rights, privileges and immunities which are now or hereafter may be conferred, either expressly or by implication, upon the Town of Forest City specifically or upon municipal corporations generally by this Charter, by the State Constitution, or by general or local law.

"Sec. 1.3. Corporate limits.—The corporate limits of the Town of Forest City shall be those existing at the time of ratification of this Charter, as the same are now or hereafter may be constituted pursuant to law. An official map or description of the Town, showing the current Town boundaries, shall be maintained permanently in the office of the Town Clerk, and shall be available for public inspection. Immediately upon alteration of the corporate limits pursuant to law, the appropriate changes to the official map or description of the Town shall be made.

"ARTICLE II.

"MAYOR AND BOARD OF COMMISSIONERS.

"Sec. 2.1. Governing body.—The Mayor and Board of Commissioners, elected and constituted as herein set forth, shall be the governing body of the Town. On behalf of the Town, and in conformity with applicable laws, the Mayor and Board may provide for the exercise of all municipal powers, and shall be charged with the general government of the Town.

"Sec. 2.2. Mayor, terms of office; duties.—The Mayor shall be elected by and from the qualified voters of the Town for a term of two years, in the manner provided by Article III of this Charter; provided, the Mayor shall serve until his successor is elected and qualified. The Mayor shall be the official head of the Town government, shall preside at all meetings of the Board of Commissioners, and shall have the powers and duties of Mayor as prescribed by this Charter and the General Statutes. The Mayor shall have the right to vote on matters before the Board only where there are an equal number of votes in the affirmative and in the negative.

"Sec. 2.3. Board of Commissioners; terms of office.—The Board of Commissioners shall be composed of five members, each of whom shall be elected for terms of two years, in the manner provided by Article III of this Charter; provided, Board members shall serve until their successors are elected and qualified.

"Sec. 2.4. Mayor pro tempore.—In accordance with applicable State laws, the Board of Commissioners shall appoint one of its members to act as Mayor pro
tempore to perform the duties of the Mayor in the Mayor's absence or disability. The Mayor pro tempore as such shall have no fixed term of office, but he shall serve in such capacity at the pleasure of the remaining members of the Board.

"Sec. 2.5. Meetings of the Board.—In accordance with applicable State laws, the Board shall establish a suitable time and place for its regular meetings. Special meetings may be held according to applicable provisions of the General Statutes.

"Sec. 2.6. Ordinances and resolutions.—The adoption, amendment, repeal, pleading, or proving of Town ordinances and resolutions shall be in accordance with applicable provisions of the General Statutes of North Carolina not inconsistent with this Charter. Except as otherwise provided by law, all ordinances shall become effective upon adoption; provided, an ordinance may, by its own terms, specify some other time upon which it shall take effect.

"ARTICLE III.

"ELECTIONS.

"Sec. 3.1. Regular municipal elections; conduct.—Regular municipal elections shall be held in the Town every two years in odd-numbered years, and shall be conducted in accordance with the uniform municipal election laws of North Carolina. The Mayor and members of the Board shall be elected according to the nonpartisan plurality election method.

"Sec. 3.2. Election of the Mayor.—At the regular municipal election in 1981, and every two years thereafter, there shall be elected a Mayor to serve a term of two years. The Mayor shall be elected by the qualified voters of the Town voting at large.

"Sec. 3.3. Election of Board members.—At the regular municipal election in 1981 and every two years thereafter, there shall be elected by the qualified voters of the Town five Board members to serve terms of two years each.

"ARTICLE IV.

"ORGANIZATION AND ADMINISTRATION.

"Sec. 4.1. Form of government.—The Town shall operate under the Council-Manager form of government, in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Sec. 4.2. Town Manager.—The Board of Commissioners shall appoint a Town Manager who shall be the administrative head of Town government, and who shall be responsible to the Board for the proper administration of the affairs of the Town. The Town Manager shall hold office at the pleasure of the Board of Commissioners, and shall receive such compensation as the Board shall determine.

"Sec. 4.3. Town Attorney.—The Board of Commissioners shall appoint a Town Attorney who shall be licensed to engage in the practice of law in the State of North Carolina. Upon request by the Board of Commissioners, it shall be the duty of the Town Attorney to defend suits against the Town; to advise the Mayor, Board of Commissioners and other Town officials with respect to the affairs of the Town; to draft legal documents relating to the affairs of the Town; to inspect and pass upon agreements, contracts, franchises and other instruments with which the Town may be concerned; to attend meetings of the Board of Commissioners, and to perform other duties as the Board may direct.

"Sec. 4.4. Town Clerk.—The Town Manager shall appoint a Town Clerk to keep a journal of the proceedings of the Board, to maintain in a safe place all
records and documents pertaining to the affairs of the Town, and to perform such other duties as may be required by law or as the Board of Commissioners may direct.

"Sec. 4.5. Town Finance Officer.—The Town Manager shall appoint a Town Finance Officer to perform the duties of the finance officer as required by the Local Government Budget and Fiscal Control Act.

"Sec. 4.6. Town Tax Collector.—The Town Manager shall appoint a Town Tax Collector to collect all taxes, licenses, fees and other revenues accruing to the Town, subject to the General Statutes, the provisions of this Charter and the ordinances of the Town. The Town Tax Collector shall diligently comply with and enforce all the laws of North Carolina relating to the collection of taxes and other revenues by municipalities.

"Sec. 4.7. Consolidation of functions.—The Board of Commissioners may provide for the consolidation of any two or more positions of Town Manager, Town Clerk, Town Tax Collector and Town Finance Officer, or may assign the functions of any one or more of these positions to the holder or holders of any other of these positions, subject to the Local Government Budget and Fiscal Control Act.

"Sec. 4.8. Other Administrative officers and employees.—Consistent with applicable State laws, the Board of Commissioners may establish other positions, provide for the appointment of other administrative officers and employees, and generally organize the Town government in order to promote the orderly and efficient administration of the affairs of the Town.

"ARTICLE V.

"PUBLIC IMPROVEMENTS.

"Sec. 5.1. Assessments for street and sidewalk improvements; petition unnecessary.—(a) In addition to any authority which is now or hereafter may be granted by general law to the Town for making street improvements, the Board of Commissioners is hereby authorized to make street improvements and to assess the total cost thereof against abutting property owners in accordance with the provisions of this section.

(b) The Board of Commissioners may order street improvements and assess the cost thereof against the abutting property owners, exclusive of the costs incurred at street intersections, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes without the necessity of a petition, upon the finding by the Board as a fact:

(1) that the street improvement project does not exceed 2,000 linear feet, and

(2) that such street or part thereof is unsafe for vehicular traffic, and it is in the public interest to make such improvements, or

(3) that it is in the public interest to connect two streets, or portions of a street already improved, or

(4) that it is in the public interest to widen a street, or part thereof, which is already improved, provided, that assessments for widening any street or portion of street without a petition shall be limited to the cost of widening and otherwise improving such streets in accordance with the street classification and improvement standards established by the Town's thoroughfare or major street plan for the particular street or
part thereof to be widened and improved under the authority granted by this Article.

(c) For the purpose of this Article, the term 'street improvement' shall include grading, regrading, surfacing, resurfacing, widening, paving, repaving, the acquisition of right-of-way, and the construction or reconstruction of curbs, gutters and street drainage facilities.

(d) In addition to any authority which is now or may hereafter be granted by general law to the Town for making sidewalk improvements, the Board is hereby authorized without the necessity of a petition, to make or to order to be made sidewalk improvements or repairs according to standards and specifications of the Town, and to assess the total cost thereof against abutting property owners, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes; provided however, that regardless of the assessment basis or bases employed, the Board of Commissioners may order the cost of sidewalk improvements made only on one side of a street to be assessed against property owners abutting both sides of such street.

(e) In ordering street and sidewalk improvements without a petition and assessing the cost thereof under authority of this Article, the Board shall comply with the procedure provided by Article 10, Chapter 160A of the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.

"Sec. 5.2. Power of eminent domain.—The procedures provided in Article 9 of Chapter 136 of the General Statutes, as specifically authorized by G.S. 136-66.3(c), shall be applicable to the Town in the case of acquisition of lands, easements, privileges, rights-of-way and other interests in real property for streets, sewer lines, water lines, electric power lines, and other utility lines in the exercise of the power of eminent domain. The Town, when seeking to acquire such property or rights or easements therein or to use the provisions and procedures as authorized and provided in G.S. 136-66(c) and Article 9 of Chapter 136 of the General Statutes for any of such purposes without being limited to streets constituting a part of the State Highway System; provided, however, that the provisions of this section shall not apply with regard to properties owned by public service corporations as defined in G.S. 160A-243(c), unless (1) the exercise of such power of eminent domain is either consented to by the owner of the property to be acquired by the Town or (2) it is first adjudicated after notice and a hearing that such acquisition will not prevent or unreasonably impair the continued devotion to the public use of such properties and the operation by such public service corporation.

"ARTICLE VI.

"SPECIAL PROVISIONS.

"Sec. 6.1. Purchasing.—Notwithstanding the provisions of G.S. 143-129, the Town of Forest City shall not be required to use the formal bid procedure for the purchase or lease-purchase of apparatus, materials, supplies or equipment requiring an estimated expenditure of twelve thousand dollars ($12,000) or less.

"Sec. 6.2. Referendum authority.—The Board of Commissioners shall have the right and authority to call an election to be held at any time upon the written application of twenty-five percent (25%) of the qualified voters of said Town for the purpose of voting upon any question which the said petition may request them to submit to a vote of the citizens of said Town, for any purpose
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whichever or for the purpose of ascertaining the wishes of the inhabitants of said Town upon any other question of public interest. The said Board shall advertise said election so ordered for a period of 30 days in some newspaper published in Rutherford County and no special act shall be necessary to authorize the said Commissioners to order any such election. The said Board shall also have the authority to call as many elections under the provisions of this section as they may be petitioned to call in the manner hereinbefore set out, and may call more than one election to be held for the purpose of voting upon the same question if a petition be filed, as herein provided, requesting said Commissioners to call such election, notwithstanding the fact that other elections may have been held for the purpose of ascertaining the wishes of the citizens of the Town upon the same question theretofore.

"Sec. 6.3. Supplemental retirement funds for firemen.—(a) Disbursements. Notwithstanding the provisions of G.S. 118-7, the Board of Trustees of the Local Firemen's Relief Fund of the Town of Forest City shall as soon as practical after January 15th and July 15th, but in no event later than March 1st or September 1st, divide the income earned in the preceding calendar six months, upon investment of funds belonging to the Local Firemen's Relief Fund into equal shares and disburse the same as supplemental retirement benefits in accordance with subsection (b) of this section.

(b) Supplemental Retirement Benefits.

(1) Each fireman of the Town who has 20 years' service or more and who has attained the age of 55 years and retires after June 25, 1980, shall be entitled to and shall receive an annual supplemental retirement benefit equal to one share for each full year of service as a fireman of the Town; provided, in no event shall any retired fireman be entitled to or receive in any year an annual benefit in excess of six hundred dollars ($600.00).

(2) Any former or present fireman of the Town who has five years' service and who is not otherwise entitled under the supplemental retirement benefits under subsection (1) of this section shall nevertheless be entitled to such benefits in any calendar year in which the Board of Trustees makes the following written findings of fact:

a. that he initially retired from his position as fireman because of his inability, by reason of sickness or injury, to perform the normal duties of an active fireman; and

b. that, within 30 days prior to or following his initial retirement as a fireman, at least two physicians licensed to practice medicine in North Carolina certified that he was at such time unable, by reason of sickness or injury, to perform the normal duties of an active fireman; and

c. that, at the time of his initial retirement as a fireman, there was not available to him in the fire department or in any other department of the Town a position of employment, the normal duties of which he was capable of performing; and

d. that, since the preceding January 1, at least two physicians licensed to practice medicine in North Carolina have certified that he remains unable, by reason of sickness or injury, to perform the normal duties of an active fireman; provided, that the Board of Trustees, after initially making the findings of fact specified in (1), (2), and (3) of this subsection, need not specify such findings in any subsequent calendar
year unless there is valid reason to believe that he is able to return to normal duty.

(c) Intention. It is the intention of subsections (a) and (b) of this section to authorize the disbursement as supplemental retirement benefits only the income derived in any calendar year from the investments of funds belonging to the Local Firemen's Relief Fund. Any of these funds not disbursed shall revert to the Local Firemen's Relief Fund.

(d) Investment of Idle Funds. The Board of Trustees is hereby authorized and directed to invest all funds of the Local Firemen's Relief Fund in one or more of the investments named in G.S. 159-30.

(e) Bond of Treasurer. The Board of Trustees shall bond the treasurer of the Local Firemen's Relief Fund with a good and sufficient bond, in an amount at least equal to the amount of funds in his control, payable to the Board of Trustees, and conditioned upon the faithful performance of his duties; such bond shall be in lieu of the bond required by G.S. 118-6. The Board of Trustees shall pay from the Local Firemen's Relief Fund the premiums on the bond of the treasurer."

Sec. 2. The purpose of this act is to revise the Charter of the Town of Forest City and to consolidate herein certain acts concerning the property, affairs, and government of the Town. It is intended to continue without interruption those provisions of prior acts which are consolidated into this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 3. This act shall not be deemed to repeal, modify, or in any manner affect any of the following acts, portions of acts, or amendments thereto, whether or not such acts, portions of acts, or amendments are expressly set forth herein:

(1) Any acts concerning the property, affairs, or government of public schools in the Town of Forest City.

(2) Any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

Sec. 4. The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act are hereby repealed:

Public Laws 1876-77, Chapter 136
Public Laws 1887, Chapter 244
Private Laws 1897, Chapter 116
Public Laws 1897, Chapter 347
Private Laws 1909, Chapter 136
Private Laws 1915, Chapter 235
Private Laws 1921, Chapter 116
Private Laws 1925, Chapter 2
Private Laws 1925, Chapter 49
Private Laws 1925, Chapter 129
Private Laws 1935, Chapter 17
Public-Local Laws 1937, Chapter 87
Public-Local Laws 1937, Chapter 88
Public-Local Laws 1941, Chapter 153
Session Laws 1943, Chapter 494
Session Laws 1945, Chapter 230
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Session Laws 1949, Chapter 630
Session Laws 1953, Chapter 289
Session Laws 1955, Chapter 240
Session Laws 1955, Chapter 519
Session Laws 1955, Chapter 701
Session Laws 1957, Chapter 1122
Session Laws 1959, Chapter 54
Session Laws 1959, Chapter 398
Session Laws 1967, Chapter 680
Session Laws 1969, Chapter 236
Session Laws 1971, Chapter 41
Session Laws 1973, Chapter 425
Session Laws 1973 (2nd Session, 1974), Chapter 1181
Session Laws 1979 (2nd Session, 1980), Chapter 1276.

Sec. 5. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests, whether public or private:

(1) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act.

(2) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken pursuant to or within the scope of any provisions of law repealed by this act.

Sec. 6. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(1) The repeal herein of any act repealing such law, or

(2) Any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

Sec. 7. (a) All existing ordinances and resolutions of the Town of Forest City and all existing rules or regulations of departments or agencies of the Town of Forest City, not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified or amended.

(b) No action or proceeding of any nature, whether civil or criminal, judicial or administrative, or otherwise, pending at the effective date of this act by or against the Town of Forest City or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 8. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 9. Whenever a reference is made in this act to a particular provision of the General Statutes, and such provision is later amended, repealed or superseded, the reference shall be deemed amended to refer to the amended General Statute, or to the General Statute which most clearly corresponds to the statutory provision which is repealed or superseded.

Sec. 10. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1981.
H. B. 490

CHAPTER 210

AN ACT TO ALLOW THE TOWN OF WILLIAMSTON TO COLLECT ON MOTOR VEHICLES A TAX OF NOT MORE THAN FIVE DOLLARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 2097(a) is amended by adding immediately after the words "Town of Stoneville" each time they appear the words "Town of Williamston".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1981.

H. B. 501

CHAPTER 211

AN ACT ADOPTING AND ENACTING A NEW CHARTER FOR THE CITY OF THOMASVILLE, NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Thomasville is hereby revised and consolidated as follows:

"ARTICLE I.

"General.

"Sec. 101. Act to constitute new Charter; former acts repealed.

This act shall constitute the Charter of the City of Thomasville, and shall supersede and replace all local acts enacted prior hereto relating solely to the City of Thomasville.

"Sec. 102. City rechartered and continued.

The City of Thomasville, North Carolina, is hereby rechartered and continued as a body politic and corporate under the name and style of the 'City of Thomasville' .

"Sec. 103. Form of government.

The form of government for the city shall be the 'council-manager' form.

"Sec. 104. Right reserved to change form of government, etc.

Neither Section 103 above nor any other provisions of this Charter shall preclude the city from changing its name, modifying its form of government or otherwise altering its structure in accordance with Chapter 160A of the General Statutes.

"Sec. 105. Applicability of statutes.

Except where inconsistent with the provisions of this Charter, the City of Thomasville shall have all powers conferred by and be subject to all provisions of the general laws of North Carolina relating to cities.

"ARTICLE II.

"Corporate Limits and Electoral Districts (Wards).

"Sec. 201. Corporate limits.

The corporate limits of the City of Thomasville shall be as follows:

'BEGINNING at a concrete monument in the Northern property line of Lot 5 as shown on Plat of Conrad Heights recorded in the Office of the Register of Deeds for Davidson County, North Carolina in Plat Book 10, Page 104, said Concrete Monument being located North 88 degrees 46 minutes 00 seconds West 104.85 feet, as measured along the rear line of Lambeth Knolls Section 8, recorded in Plat Book 6, Page 79, from a point where the West right-of-way line
of Cardinal Place intersects with the rear line of Lambeth Knolls, Section 8; thence with the City Limits line crossing through Lambeth Knolls, Section 8 and Section 6 North 24 degrees 26 minutes 40 seconds West 993.90 feet to a Concrete Monument in the rear line of Lambeth Knolls, Section 6, recorded in Plat Book 6, Page 26, and the North Carolina Baptist Orphanage's line; thence with the City Limit line crossing through the North Carolina Baptist Orphanage's property North 24 degrees 26 minutes 40 seconds West 2,763.06 feet to a Concrete Monument in the southern right-of-way line of Johnsontown Road; thence with said right-of-way line South 56 degrees 02 minutes 30 seconds West 380.83 feet to a Concrete monument; thence South 57 degrees 08 minutes 40 seconds West 290.29 feet to a Concrete Monument; thence South 55 degrees 30 minutes 30 seconds West 383.81 feet to a Concrete Monument in the southern right-of-way line of Johnsontown Road; thence with the City Limit line crossing Johnsontown Road North 32 degrees 23 minutes 00 seconds West 60.12 feet to a Concrete Monument in the Northern right-of-way line of Johnsontown Road, said Monument being approximately 150 feet West of King Row; thence with an existing property line North 32 degrees 23 minutes 00 seconds West 353.06 feet to a Concrete Monument; thence with the City Limit line crossing through the property of H. B. Finch North 07 degrees 47 minutes 20 seconds West 805.37 feet to a Concrete Monument in the Southern right-of-way line of the Southern Railroad; thence with the Southern Railroad right-of-way line South 74 degrees 59 minutes 50 seconds West 187.34 feet to a Concrete Monument; thence with a curve to the right having a radius of 8,211.86 feet, a tangent of 279.59 feet, and a length of 558.96 feet to a Concrete Monument in the Southern right-of-way line of the Southern Railroad; thence crossing the Southern Railroad North 04 degrees 25 minutes 50 seconds East 208.18 feet to a Concrete Monument in the Northern right-of-way line of the Southern Railroad and in the West right-of-way line of Pineywood Road (not open), as shown on Myers Park Subdivision, Section 3, recorded in Plat Book 4, Page 69; thence along the Northern right-of-way line of the Southern Railroad the following courses and distances; South 80 degrees 58 minutes 10 seconds West 901.11 feet to a Concrete Monument, a corner of Myers Park and the Community General Hospital; thence South 86 degrees 16 minutes 00 seconds West 211.02 feet; thence South 88 degrees 13 minutes 00 seconds West 196.51 feet; thence North 89 degrees 44 minutes 00 seconds West 196.48 feet; thence North 87 degrees 45 minutes 00 seconds West 197.15 feet; thence North 86 degrees 27 minutes 30 seconds West 104.67 feet; thence 86 degrees 06 minutes 00 seconds West 827.08 feet to a Concrete Monument, the common corner of Jewel Sink and the Community General Hospital in the Northern right-of-way line of the Southern Railroad; thence with the common line of Jewel Sink and the hospital North 11 degrees 25 minutes 00 seconds West 477.23 feet to a Concrete Monument, the common corner of Jewel Sink, Community General Hospital and Kester A. Sink; thence with the common lines of Kester A. Sink and the hospital South 86 degrees 25 minutes 00 seconds East 697.81 feet to a Concrete Monument; thence North 04 degrees 06 minutes 50 seconds East 1,547.30 feet to a Concrete Monument, the common corner of Kester A. Sink and the Community General Hospital in the Southern right-of-way line of Old Lexington Road; thence with the Southern right-of-way line of Old Lexington Road South 64 degrees 47 minutes 30 seconds East 594.88 feet to a Concrete Monument, thence with a curve to the left having a radius of 693.05 feet, a
tangent of 221.90 feet and a length of 429.51 feet to a Concrete Monument; thence North 79 degrees 42 minutes 00 seconds East 187.90 feet to a Concrete Monument in the Southern right-of-way line of Old Lexington Road, said Monument being the common front corner of Lots 5 and 6, Block "D" as shown on Myers Park, Section 3, recorded in Plat Book 4, Page 69; thence South 10 degrees 15 minutes 00 seconds East 299.85 feet to a Concrete Monument in the Northern right-of-way of Marylou Avenue (not open), said Monument being the common front corner of Lots 23 and 24 of Myers Park; thence with the Northern right-of-way line of Marylou Avenue South 79 degrees 25 minutes 00 seconds West 74.94 feet to a Concrete Monument; thence crossing Marylou Avenue South 19 degrees 54 minutes 00 seconds West 58.01 feet to a Concrete Monument; thence with the rear line of Myers Park, Block "G" South 03 degrees 31 minutes 20 seconds West 1,271.60 feet to a point in the rear line of Myers Park, Section 3, Block "G"; thence with the City Limit Line crossing through Myers Park, Section 3, North 82 degrees 07 minutes 20 seconds East 898.79 feet to a point in the Western right-of-way line of Pineywood Road (not open); thence with the Western right-of-way line of Pineywood Road North 04 degrees 25 minutes 50 seconds East 1,667.00 feet to a Concrete Monument, said Monument being the Southwest intersection of Pineywood Road and Lexington Avenue; thence crossing Lexington Avenue North 13 degrees 46 minutes 10 seconds East 148.48 feet to a Concrete Monument, said Monument being the Northwest intersection of Pineywood Road and Lexington Avenue; thence with the Western right-of-way line of Pineywood Road North 15 degrees 38 minutes 30 seconds East 862.53 feet to a Concrete Monument in the Western right-of-way line of Pineywood Road; thence with the City Limit Line North 24 degrees 26 minutes 40 seconds West 368.98 feet to a Concrete Monument; thence with the City Limit Line North 65 degrees 33 minutes 20 seconds East 277.57 feet to a Concrete Monument in the Western right-of-way line of Pineywood Road; thence with the Western right-of-way line of Pineywood Road crossing Sunset Drive North 06 degrees 13 minutes 30 seconds West 66.18 feet to a Concrete Monument, said Monument being the Northwest intersection of Pineywood Road and Sunset Drive, as shown on Plat of Sunset Acres, recorded in Book 10, Page 1; thence with the Western right-of-way line of Pineywood Road the following courses and distances; North 09 degrees 57 minutes 30 seconds West 562.76 feet; thence with a curve to the right having a radius of 2,502.91 feet, a tangent of 268.22 feet and a length of 534.40 feet; thence North 02 degrees 16 minutes 30 seconds East 595.08 feet; thence with a curve to the right having a radius of 1,193.15 feet, a tangent of 392.03 feet, and a length of 757.60 feet; thence North 38 degrees 39 minutes 20 seconds East 299.10 feet to a Concrete Monument in the Western right-of-way line of Pineywood Road, thence with a curve to the left having a radius of 113.46 feet, a tangent of 128.65 feet and a length of 134.46 feet to a Concrete Monument in the Western right-of-way line of Jacob Street thence with the Western right-of-way line of Jacob Street North 57 degrees 41 minutes 40 seconds West 150.31 feet to a Concrete Monument in the Southern right-of-way line of U.S. Highways 29 and 70; thence with the Southern right-of-way line of U.S. Highways 29 and 70 the following courses and distances: North 50 degrees 55 minutes 10 seconds East 1,264.62 feet; thence with a curve to the right having a radius of 11,145.21 feet, a tangent of 286.98 feet and a length of 480.39 feet; thence North 53 degrees 52 minutes 10 seconds East 1,367.25 feet; thence North 53 degrees 30 minutes 20 seconds East
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379.23 feet to a concrete monument in the Southern right-of-way line of U.S. Highways 29 and 70; thence South 87 degrees 39 minutes 00 seconds East 64.69 feet to a Concrete Monument in the Western right-of-way line of N.C. Highway 109 (Salem Street); thence crossing N. C. Highway 109 North 55 Degrees 37 minutes 50 seconds East 64.34 feet to a Concrete Monument in the Eastern right-of-way line of N. C. Highway 109; thence North 03 degrees 50 minutes 20 seconds East 55.09 feet to a Concrete Monument in the Southern right-of-way line, U. S. Highways 29 and 70; thence with a curve to the right having a radius of 3,871.97 feet, a tangent of 276.98 feet and a length of 553.02 feet to a Concrete Monument; thence North 62 degrees 03 minutes 10 seconds East 2,495.84 feet; thence with a curve to the right having a radius of 5,593.16 feet, a tangent of 854.21 feet, and a length of 1,695.58 feet; thence North 79 degrees 25 minutes 20 seconds East 4,528.78 feet; thence North 79 degrees 20 minutes 00 seconds East 403.51 feet to a Concrete Monument in the Southern right-of-way line of U. S. Highways 29 and 70 and the Western right-of-way line of the access road leading to National Highway; thence with the Western right-of-way line of the access road the following courses and distances: South 67 degrees 42 minutes 00 seconds East 184.22 feet; thence South 42 degrees 33 minutes 00 seconds East 234.30 feet; thence South 19 degrees 50 minutes 40 seconds East 89.87 feet; thence South 03 degrees 11 minutes 50 seconds West 36.33 feet to a Concrete Monument, said Monument being the Northwest intersection of the access road and National Highway; thence crossing National Highway North 72 degrees 25 minutes 20 seconds East 64.04 feet to a Concrete Monument in the Eastern right-of-way line of National Highway; thence with the Eastern right-of-way line of National Highway the following courses and distances: South 04 degrees 29 minutes 00 seconds West 109.90 feet; thence South 07 degrees 38 minutes 50 seconds West 100.00 feet; thence South 12 degrees 43 minutes 20 seconds West 150.00 feet; thence South 16 degrees 30 minutes 30 seconds West 100.00 feet; thence South 19 degrees 51 minutes 10 seconds West 200.00 feet to a Concrete Monument in the Eastern right-of-way line of National Highway, said Monument being the Northwest corner of Lot 1, Block “E” as shown on Plat of Erwin Heights, recorded in Plat Book 6, Page 42; thence with the rear line of Erwin Heights South 87 degrees 01 minutes 50 seconds East 534.88 feet to a Concrete Monument; thence South 03 degrees 19 minutes 00 seconds West 797.46 feet to a Concrete Monument, said Monument being in the rear line of Lot 11, Block “E”, Erwin Heights; thence with the City Limit Line South 87 degrees 28 minutes 00 seconds East 287.64 feet to a Concrete Monument, said Monument being the Northeast corner of Lot 33, Block “A”, Erwin Heights; thence with the rear line of said Block “A”, South 03 degrees 59 minutes 30 seconds West 859.60 feet to a Concrete Monument; thence South 03 degrees 34 minutes 40 seconds West 503.02 feet; thence North 87 degrees 17 minutes 30 seconds West 1,011.35 feet to a Concrete Monument, said Monument being the common rear corner of Lots 12 and 13, Block “A”, Erwin Heights; thence with the City Limit Line South 06 degrees 09 minutes 50 seconds West 267.28 feet to a Concrete Monument; thence North 83 degrees 55 minutes 50 seconds West 194.34 feet to a Concrete Monument; thence parallel and approximately 200 feet East of Turner Street South 06 degrees 04 minutes 10 seconds West 1,517.85 feet to a Concrete Monument in the Northern right-of-way line of Unity Street; thence with the Northern right-of-way line of Unity Street the following courses and distances: South 77 degrees 24 minutes 10 seconds East
256.50 feet to a Concrete Monument, said Monument being the Northwest intersection of Unity Street and Albertson Road; thence crossing Albertson Road South 75 degrees 17 minutes 50 seconds East 62.45 feet to a Concrete Monument, said Monument being the Northeast intersection of Unity Street and Albertson Road; thence South 75 degrees 17 minutes 50 seconds East 244.58 feet; thence South 72 degrees 44 minutes 40 seconds East 471.53 feet to a Concrete Monument in the Western right-of-way line of the Southern Railroad; thence crossing the Southern Railroad South 72 degrees 19 minutes 50 seconds East 220.19 feet to a Concrete Monument in the Eastern right-of-way line of the Southern Railroad; thence South 73 degrees 33 minutes 40 seconds East 241.24 feet; thence South 69 degrees 48 minutes 30 seconds East 200.35 feet; thence South 66 degrees 44 minutes 10 seconds East 122.45 feet to a Concrete Monument, said Monument being the Northwest intersection of Unity Street and Blair Street; thence crossing Blair Street South 66 degrees 43 minutes 20 seconds East 60.16 feet to a Concrete Monument, said monument being the Northeast intersection of Blair Street and Unity Street; thence crossing Unity Street South 27 degrees 28 minutes 00 seconds West 60.16 feet to a Concrete Monument, said Monument being the Southeast intersection of Blair Street and Unity Street; thence with the Eastern right-of-way line of Blair Street the following courses and distances; South 21 degrees 10 minutes 40 seconds West 490.55 feet; thence South 18 degrees 57 minutes 30 seconds West 329.50 feet; thence South 25 degrees 31 minutes 30 seconds West 208.03 feet; thence South 43 degrees 01 minutes 30 seconds West 121.99 feet to a Concrete Monument, said Monument being the Southeast intersection of Blair Street and Vivian Street, said Monument also being the Northwest corner of Lot 56 as shown on Plat of Freemont Park, recorded in Plat Book 7, Page 95; thence with the lines of Freemont Park North 89 degrees 16 minutes 40 seconds East 172.70 feet to a Concrete Monument; thence South 03 degrees 00 minutes 10 seconds West 1,293.51 feet to a Concrete Monument; thence North 87 degrees 54 minutes 40 seconds West 495.50 feet to a Concrete Monument; thence North 87 degrees 54 minutes 30 seconds West 132.72 feet to a Concrete Monument, said Monument being in the Southern property line of Lot 173, Freemont Park; thence with the City Limit Line South 24 degrees 26 minutes 40 seconds East 2,996.11 feet to a Concrete Monument; thence with the City Limit Line South 65 degrees 33 minutes 20 seconds West 294.67 feet to a Concrete Monument, said Monument being located in the Eastern right-of-way line of Border Street (not open); thence with the Eastern right-of-way line of Border Street, South 05 degrees 51 minutes 00 seconds West 544.00 feet to a Concrete Monument, said Monument being the Northeast intersection of Border Street and East Sunrise Avenue (formerly Welborn Street); thence crossing East Sunrise Avenue South 05 degrees 51 minutes 00 seconds West 62.48 feet to a Concrete Monument in the Southern right-of-way line of East Sunrise Avenue; thence with the Southern right-of-way of East Sunrise Avenue the following courses and distances: North 67 degrees 57 minutes 00 seconds West 100.99 feet; thence North 75 degrees 44 minutes 50 seconds West 100.00 feet; thence North 84 degrees 48 minutes 50 seconds West 200.00 feet; thence North 89 degrees 49 minutes 50 seconds West 200.00 feet to a Concrete Monument in the Southern right-of-way line of East Sunrise Avenue, said Monument being the Northeast corner of Lot 1, as shown on Plat of Sunrise Hills, Section 3, recorded in Plat Book 9, Page 34; thence with the rear line of Sunrise Hills, Section 3, South 04 degrees 58 minutes 20
seconds West 1,054.16 feet to a Concrete Monument, said Monument being the Southeast corner of Lot 41, Sunrise Hills, Section 3 and the Northeast corner of an unnumbered lot as shown on Plat of Glengale Acres, recorded in Plat Book 10, Page 30; thence with the rear line of Glengale Acres South 05 degrees 01 minutes 50 seconds West 1,013.36 feet to a Concrete Monument, said Monument being the Southeast corner of Lot 20, Glengale Acres; thence with the City Limit Line South 87 degrees 17 minutes 00 seconds East 61.12 feet to a Concrete Monument, said Monument being a corner of Lot 1 as shown on Plat of Scottwood, recorded in Plat Book 14, Page 60; thence with the rear lines of Scottwood South 88 degrees 11 minutes 00 seconds East 240.00 feet, thence South 88 degrees 01 minutes 30 seconds East 846.32 feet; thence South 03 degrees 21 minutes 00 seconds West 135.90 feet; thence South 60 degrees 36 minutes 50 seconds West 183.52 feet; thence South 61 degrees 19 minutes 20 seconds West 756.07 feet to an iron pipe in the Eastern right-of-way line of East Holly Hill Road (formerly Vance Road); thence with the Eastern right-of-way line of East Holly Hill Road the following courses and distances: South 31 degrees 41 minutes 50 seconds East 240.36 feet; thence South 28 degrees 08 minutes 00 seconds East 1,390.25 feet to a point, said point being the Northeast intersection of East Holly Hill Road and N. C. Highway 62 (Cloniger Drive); thence with the Northern right-of-way line on N. C. Highway 62 North 84 degrees 08 minutes 50 seconds East 601.29 feet to a point in the Northern right-of-way line on N. C. Highway 62, said point being the projected Eastern right-of-way line of Raleigh Road; thence crossing N. C. Highway 62 and with the Eastern right-of-way line of Raleigh Road South 42 degrees 41 minutes 20 seconds West 755.05 feet to a point in the Eastern right-of-way line of Raleigh Road; thence with the City Limit Lines crossing Raleigh Road South 87 degrees 17 minutes 00 seconds West 889.37 feet; thence South 87 degrees 08 minutes 00 seconds West 306.60 feet; thence South 80 degrees 01 minutes 00 seconds West 226.64 feet; thence South 05 degrees 21 minutes 00 seconds West 605.72 feet; thence South 03 degrees 14 minutes 00 seconds West 248.14 feet; thence North 87 degrees 01 minutes 00 seconds West 323.24 feet to an iron pipe, said iron pipe being a corner of Lot 10, Block “A” as shown on Plat of Rolling Acres, Section three, recorded in Plat Book 11, Page 22; thence with the rear line of Block “A”, Rolling Acres North 86 degrees 58 minutes 00 seconds West 506.13 feet to a point, said point being located South 86 degrees 58 minutes 00 seconds East 40.00 feet from the common rear corner of Lots 5 and 6, Block “A”, Rolling Acres; thence with the City Limit Line crossing Lot 6 and Laura Lane (not open) South 03 degrees 21 minutes 00 seconds West 237.47 feet to a point in the Southern right-of-way line of Laura Lane; thence with the Southern right-of-way line of Laura Lane North 85 degrees 37 minutes 00 seconds West 340.00 feet to an iron pipe in the Southern right-of-way line of Laura Lane, said iron pipe being the Northeast corner of Lot 4, Block “B”, Rolling Acres; thence with the City Limit Line located 180.00 feet East and parallel to the Eastern right-of-way line of Liberty Drive South 03 degrees 28 minutes 00 seconds West 886.65 feet to a point in the rear line of Lot 6, Block “D”, Rolling Acres, Section 3; thence with the City Limit Line North 81 degrees 59 minutes 00 seconds West 3,178.79 feet to a point; thence North 83 degrees 10 minutes 50 seconds West 829.35 feet to a Concrete Monument; thence South 38 degrees 27 minutes 20 seconds West 353.80 feet to a Concrete Monument, said Monument being a corner of Fairgrove Forest, Section 4, recorded in Plat Book 9, Page 99; thence
South 02 degrees 56 minutes 20 seconds West 809.63 feet to a Concrete Monument, said Monument being the Southeast corner of Lot 1 as shown on Plat of Fairgrove Estate, Section 1, recorded in Plat Book 12, Page 81; thence with the Fairgrove Estate lines South 79 degrees 04 minutes 00 seconds West 422.41 feet; thence North 49 degrees 40 minutes 00 seconds West 1,152.60 feet; thence North 04 degrees 49 minutes 30 seconds East 1,541.41 feet; thence South 84 degrees 52 minutes 00 seconds East 95.90 feet to a Concrete Monument, said Monument being a corner of Lot 27 in the Western right-of-way line of Ferndale Drive as shown on Fairgrove Estates, Section 1; thence with the Western right-of-way line of Ferndale Drive North 07 degrees 29 minutes 40 seconds West 746.43 feet; thence North 06 degrees 45 minutes 00 seconds West 396.57 feet to a Concrete Monument, said monument being the Southwest intersection of Ferndale Drive and West Holly Hill Road; thence with the Western right-of-way line of said West Holly Hill Road the following courses and distances: South 70 degrees 39 minutes 20 seconds West 796.17 feet; thence with a curve to the right having a radius of 530.39 feet, a tangent of 117.45 feet, a length of 231.17 feet; thence North 84 degrees 22 minutes 20 seconds West 92.31 feet to a Concrete Monument, said Monument being the Southeast intersection of West Holly Hill Road and Fisher Ferry Road; thence crossing Fisher Ferry Road North 84 degrees 22 minutes 20 seconds West 480.58 feet to a Concrete Monument, said Monument being the Southeast intersection of West Holly Hill Road and Kendall Mill Road; thence crossing Kendall Mill Road North 35 degrees 57 minutes 20 seconds West 86.84 feet to a Concrete Monument, said Monument being the Northwest intersection of Kendall Mill Road and Knollwood Drive; thence with the northern right-of-way line of Kendall Mill Road South 54 degrees 57 minutes 00 seconds West 86.72 feet to a Concrete Monument, said Monument being the Southwest corner of Lot 518 as shown on Plat of Lambeth Knolls section 7 and recorded in Plat Book 6, Page 27; thence North 28 degrees 09 minutes 30 seconds West 155.86 feet to a Concrete Monument, said Monument being the Northwest corner of said Lot 518; thence North 61 degrees 50 minutes 30 seconds East 60.44 feet to a Concrete Monument, said Monument being the Northeast corner of Lot 517 of said Section 7 located in the Western right-of-way line of Knollwood Drive; thence with the Western right-of-way line North 38 degrees 09 minutes 30 seconds West 147.69 feet to a Concrete Monument, said Monument being the common corner of Lot 468 and Lot 517; thence North 38 degrees 09 minutes 30 seconds West 73.93 feet to a Concrete Monument in the Western right-of-way line of Knollwood Drive; thence with the City Limit Line crossing through Lambeth Knolls Subdivision South 65 degrees 33 minutes 20 seconds West 790.38 feet to a Concrete Monument in the rear line of Lambeth Knolls, Section 8 and the Northern property line of Lot 6 as shown on Plat of Conrad Heights, recorded in Plat Book 10, Page 104; thence South 88 degrees 46 minutes 00 seconds East 38.28 feet to a point, said point being the Northeast corner of Lot 6, Conrad Heights; thence South 15 degrees 42 minutes 00 seconds East 76.85 feet to a point, said point being the common corner of Lot 7 and Lot 9 of Conrad Heights; thence South 62 degrees 26 minutes 00 seconds West 195.74 feet to a point in the Eastern right-of-way line of Cardinal Place, said point being the common corner of Lot 7 and Lot 8 of Conrad Heights; thence with the Eastern right-of-way line of Cardinal Place North 26 degrees 17 minutes 00 seconds West 103.28 feet to a point; thence with the City Limit line crossing Cardinal
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Place South 65 degrees 33 minutes 20 seconds West 127.76 feet to a Concrete Monument; thence North 24 degrees 26 minutes 40 seconds West 145.99 feet to the beginning. Containing 4,326.26 Acres 6.7598 Square Miles.'


The corporate limits may be enlarged or modified as provided by general law.

"Sec. 203. Division of city into electoral districts (wards).

The territory within the corporate limits of the city is hereby divided into four electoral districts (wards) as follows:

(a) First District (Ward): The First District (Ward) shall contain the territory within the following boundaries: Being all that territory located north of the Southern Railroad and east of Salem Street as said Salem Street is extended to the city limits of the City of Thomasville.

(b) Second District (Ward): The Second District (Ward) shall contain the territory within the following boundaries: Being all that territory located north of the Southern Railroad and west of Salem Street as said Salem Street is extended to the city limits of the City of Thomasville.

(c) Third District (Ward): The Third District (Ward) shall contain the territory within the following boundaries: Being all that territory located south of the Southern Railroad and west of Randolph Street and North Carolina Highway No. 109 within the city limits of the City of Thomasville.

(d) Fourth District (Ward): The Fourth District (Ward) shall contain the territory within the following boundaries: Being all that territory located south of the Southern Railroad and east of Randolph Street and North Carolina Highway No. 109 and north of North Carolina Highway No. 62 within the city limits of the City of Thomasville.

"Sec. 204. Changes in districts (wards).

By ordinance, the council may change the number of electoral districts (wards) in accordance with Part 4 of Article 5 of Chapter 160A of the General Statutes or their boundaries in accordance with G.S. 160A-23.

"ARTICLE III.

"Mayor and Council: Elections.

"Sec. 301. Mayor and composition of council.

The City of Thomasville shall have a mayor and council with five members. The city council shall be composed of one councilman at large and four councilmen from the electoral districts (wards) of the city.

"Sec. 302. Mayor and councilmen elected at large; residence.

The mayor and all councilmen shall be elected by the voters of the city at large. The mayor and the councilman at large may reside at any place within the city. Each councilman elected from an electoral district (ward) shall reside within that electoral district (ward) throughout his tenure in office.

"Sec. 303. Qualifications for mayor and councilmen.

No person shall be eligible for election as mayor or councilman unless he shall have resided within the city for at least thirty days next preceding the day of his election. No person shall be eligible for election as councilman from an electoral district (ward) unless he shall have resided in said district (ward) for at least thirty days next preceding the day of his election.

"Sec. 304. Terms of office.

(a) The mayor and councilman at large shall hold office for terms of two years and until their successors are elected and qualified. The present mayor and councilman at large shall continue to hold office and serve as mayor and
councilman at large under this charter until the organizational meeting of the council following the regular election in 1981, at which election their successors shall be elected.

(b) The councilmen from electoral districts (wards) shall hold office for terms of four years and until their successors are elected and qualified. The present councilmen from electoral districts (wards) one and three shall continue to hold office and serve as councilmen under this charter until the organizational meeting of the council following the regular election in 1983, at which election their successors shall be elected. The present councilmen from electoral districts (wards) two and four shall continue to hold office and serve as councilmen under this charter until the organizational meeting following the regular election in 1981, at which election their successors shall be elected.

"Sec. 305. Time, procedure for elections.
A general city election shall be held in each odd-numbered year at the time and in the manner provided by Chapter 163 of the General Statutes. Said elections shall be nonpartisan and shall be decided by a simple plurality in accordance with G.S. 163-292. All city elections shall be conducted by the Davidson County Board of Elections; provided that the city may, in its discretion of the council, elect to conduct its own elections as provided by G.S. 163-285.

"Sec. 306. Qualifications of electors.
All persons entitled to vote for members of the General Assembly, and who are residents of the city, and who have registered and qualified as provided in Subchapter IX of Chapter 163 of the General Statutes shall be allowed to vote for mayor and city councilmen.

"Sec. 307. Removal from office of mayor or councilman for misconduct.
The city council by vote of four-fifths of its members in meeting assembled, shall have power to remove from office the mayor or any councilman for misfeasance, malfeasance, corruption, neglect of duty or other misconduct in office, but the person to be proceeded against shall have at least ten days' notice in writing of the motion to remove him, accompanied by a copy of the charges alleged as the grounds for his proposed removal. He shall have the right to be heard in person or by counsel in his defense. In case of the removal of the mayor or any councilman, the vacancy shall be filled by the city council or the remaining members thereof in the manner provided by G.S. 160A-63.

"Sec. 308. Mayor's powers and duties.
The mayor shall exercise those powers and perform those duties provided or authorized by this charter or general law, and no others. He shall have power to administer oaths as provided by general law.

"Sec. 309. Failure to serve constitutes vacancy.
The failure or refusal of a person elected to the position of mayor or councilman to qualify or assume the duties of said office shall create a vacancy in the office which shall be filled in the same manner that other vacancies are filled under general law.

"ARTICLE IV.
"Administration.

"Sec. 401. Administration to be as provided by general law.
Except as otherwise provided in this charter, the administration of city affairs shall be as is provided by Part 2 of Article 7 of Chapter 160A of the General Statutes for the administration of council-manager cities.
"Sec. 402. Conflict of interest of manager.
The city manager shall not be personally interested in any contract in which
the city is a party for supplying the city materials or services of any kind.

"Sec. 403. Turning over effects of office to successor.
Any officer of the city shall, on demand, turn over to his successor in office
the property, records, books, moneys, scales or effects of the city.

"ARTICLE V.

"Powers and Limitations Thereon.

"Sec. 501. Powers to be broadly construed.
The city shall have all of the municipal powers provided by law. The fact
that any power or jurisdiction is specifically conferred by this charter, or that
any power or jurisdiction may have been specifically conferred by the former
charter or other local act and is not specifically mentioned herein, shall not be
construed as evidencing any legislative intent to deprive the city of any power
or jurisdiction it would otherwise have under general law.

"Sec. 502. Control over public-service corporations, etc.
The council shall have power to require all public-service corporations, and
all people doing public-service business in the city, to make such reports as it
may require, and shall have a right to inspect such books and papers as the
State Utilities Commission has the right to inspect under the laws enacted or
which may be enacted with reference to public-service corporations doing
business in the city. The council is hereby authorized and empowered to require
all public-service corporations, and all persons engaged in public-service
business in the city to construct their lines and erect such poles and towers as
may be required or used in their business at such places and along such routes as
in the opinion of the council is best and most suitable, and the council is further
authorized and empowered to cause such poles, towers and lines to be removed
or torn down, when in the opinion of the council the public good or safety so
require, and the good faith decision of the council in such matters shall be
conclusive.

"Sec. 503. Forfeiture of franchises.
The council shall have full power to declare forfeited and terminate
franchises granted persons or corporations for street railway, electric light,
telephone, telegraph, gas, power, or public-service purposes, whenever the
conditions upon which such franchise or franchises were granted have been
broken, or whenever, for any other reason, such franchise or franchises have
been lost, surrendered or forfeited.

"Sec. 504. Appointment of board of education.
The council shall continue to appoint the Thomasville Board of Education,
as provided by Chapter 88, Session Laws of 1965.

"Sec. 505. Powers, duties with regard to schools.
The council shall do and perform in relation to the Thomasville school
district or the school of said city all things now done and performed by the city
council of the City of Thomasville, and nothing in this charter shall be
construed to change the law affecting the schools of said city or district, and the
boundaries of said Thomasville school district are to be as provided in Chapter
305, Session Laws of 1959.

"Sec. 506. Destruction of buildings to stop progress of fire.
In case of fire, the mayor, city manager, or any two members of the council,
may order the blowing up, tearing down or destruction in any other way that
may seem best, of any building, when it is deemed necessary to stop the progress of the fire; and no person shall be held liable, civilly or criminally, for giving or acting in obedience to the orders thus given.”

Sec. 2. All ordinances, resolutions, rules and regulations in force at the time of taking effect of this charter, not inconsistent with its provisions, shall continue in full force and effect until amended or repealed.

Sec. 3. The following local acts, are hereby expressly repealed, provided that such repeal shall not affect any action taken or proceeding commenced prior to the effective date of this act:

(1) Private Laws of 1927, Chapter 224, insofar as it relates to the City of Thomasville.
(2) Private Laws of 1929, Chapter 196.
(3) Session Laws of 1963, Chapter 4.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1981.

H. B. 511       CHAPTER 212

AN ACT TO PROVIDE FOR AN ELECTION IN HATTERAS VILLAGE ON THE QUESTION OF CREATING AND ESTABLISHING THE HATTERAS VILLAGE COMMUNITY CENTER DISTRICT AND FOR THE LEVY AND COLLECTION OF AN AD VALOREM TAX FOR REPAIR, MAINTENANCE AND OPERATION OF A COMMUNITY CENTER BUILDING.

The General Assembly of North Carolina enacts:

Section 1. The Board of County Commissioners of Dare County is hereby authorized to call an election to be conducted by the Board of Elections of Dare County in Hatteras voting precinct as described below for the purpose of submitting to the voters therein the single issue of establishing the Hatteras Village Community Center District in said area and levying and collecting annually a special ad valorem tax on all taxable real and personal property in the proposed district for the purpose of maintaining and operating the Hatteras Community Center as set forth in Section 5 of this act. The tax levied and collected for the purpose herein specified shall not exceed fifteen cents (15¢) on each one hundred dollars ($100.00) valuation of taxable property in the area.

The area of the district is more specifically described as follows:

“All of the Hatteras Voting Precinct bounded on the west by Hyde County, on the north by Avon Voting Precinct, on the east by Frisco Voting Precinct and on the south by the Atlantic Ocean all as shown on the map in the office of the Board of Elections of Dare County, North Carolina, entitled ‘ELECTION PRECINCT BOUNDARIES - DARE COUNTY’ dated July 13, 1978, signed by Orman L. Mann, Chairman, Dare County Board of Elections, which said map is incorporated herein by reference.”

Sec. 2. The election shall be conducted in accordance with Chapter 163 of the General Statutes. The Board of Elections of Dare County shall determine and declare the results of said election and certify the same to the Board of County Commissioners of Dare County and the same shall thereupon be spread upon the minutes of the said board.
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Sec. 3. The ballot shall contain the date of the election, the words “Hatteras Village”, and shall further be in the following form:

“☐ FOR creation of the Hatteras Village Community Center District and the levy of an ad valorem tax not to exceed fifteen cents (15¢) on the one hundred dollar ($100.00) taxable valuation for the ownership, operation and maintenance of a community center.

☒ AGAINST creation of the Hatteras Village Community Center District and the levy of an ad valorem tax not to exceed fifteen cents (15¢) on the one hundred dollar ($100.00) taxable valuation for the ownership, operation and maintenance of a community center.”

The ballot shall contain the facsimile signature of the Chairman of the Board of Elections of Dare County.

Sec. 4. If a majority of the qualified voters voting at said election shall vote in favor of creating the Hatteras Village Community Center District and the levying of a tax as aforesaid for the operation, maintenance and repair of a community center building, as provided by this act, the Board of County Commissioners of Dare County shall upon receipt of the certified copy of the results of said election from the Board of Elections adopt a resolution creating the Hatteras Township Community Center District, and shall file a copy of the said resolution so adopted with the Clerk of the Superior Court of Dare County. Upon creation and establishment of the Hatteras Village Community Center District, the Board of County Commissioners of Dare County be and it is hereby authorized and directed to levy and collect an ad valorem tax on all taxable property in said district in such amount as it may deem necessary, not exceeding fifteen cents (15¢) on each one hundred dollar ($100.00) taxable valuation of property in said district from year to year, and shall cause the same to be kept in a separate and special fund, to be used only for the maintenance, operation and repair of a community center within said district, as provided by Section 5 of this act.

Sec. 5. The Hatteras Village Community Center District shall constitute a political subdivision of the State of North Carolina, and shall be a body corporate and politic, exercising public power. The Hatteras Village Community Center District is authorized to establish, operate and maintain the community center for the use and benefit of all the residents of the district by: providing suitable facilities for public meetings; for public agencies providing services to the public; providing recreational park and playground facilities; providing facilities for meetings of civic and fraternal organizations; and providing facilities for the general use of residents of the district in all matters relating to the improvement of the general health and welfare of said district and all matters of community interest.

The district and its governing body shall have the following powers:

1) To acquire and hold title to the Hatteras Village Community Center Building and any other real or personal property which may be acquired by the Hatteras Village Community Center District by purchase, gift, donation, contribution, or otherwise.

2) To sell, convey, and dispose of any real or personal property owned by the Hatteras Village Community Center District, acquired from any source whatsoever, in accordance with Article 12 of Chapter 160A of the General Statutes, except that the Dare County Board of Commissioners must approve.
(3) To erect, repair, construct, replace, and alter buildings owned by the Hatteras Village Community Center District, and to improve, manage and maintain and control all real and personal property owned by the Hatteras Village Community Center District or under its supervision and control.

(4) To employ such officers, agents, consultants, and other employees as it may desire, and to determine their qualifications, duties and compensation.

(5) To expend the funds collected by the special tax provided by this act and any and all other funds coming into the hands of the governing body thereof by gift, donation, contribution, or otherwise, for the acquisition, operation and maintenance of the Hatteras Village Community Center facilities.

(6) To do any and all other acts and things reasonably necessary and requisite to the operation and maintenance of the Hatteras Village Community Center in accordance with the provisions of this act.

Sec. 6. The governing body of the Hatteras Village Community Center District shall be a board of trustees consisting of five residents of the Hatteras voting precinct. Upon the creation and establishment of the Hatteras Village Community Center District by the Board of County Commissioners of Dare County as hereinbefore provided, members of the board of trustees shall be appointed by the board of county commissioners and shall hold office for a term of three years. All vacancies that occur, whether by death, resignation, or otherwise, shall be filled by appointment of the board of county commissioners for the unexpired term of the person creating the vacancy. Each appointee shall qualify by taking an appropriate oath to well and truly execute the duties of his office according to the best of his skill and ability, according to law. The members of the board of trustees are authorized to select from their number a chairman and a vice-chairman, and they may also select a treasurer and a secretary, which offices may be combined and which office or offices may be held by a person or persons who are not members of the board of trustees. A simple majority of the governing board shall constitute a quorum for the purpose of transacting business of the board of trustees, and approval by a majority of those present shall be adequate for determination of any matter coming before the governing board, provided at least a quorum thereof is present. Regular annual meetings of the board of trustees shall be held, and a meeting of said board may be called at any time by the chairman thereof or by any two members thereof. Any member or members of the board of trustees may be removed by the Board of Commissioners of Dare County.

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1981.
CHAPTER 213  Session Laws—1981

H. B. 552  CHAPTER 213
AN ACT TO PROVIDE AN ADDITIONAL PROCEDURE BY WHICH THE CITY MAY ACQUIRE PROPERTY FOR PUBLIC PURPOSES BY EMINENT DOMAIN.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of High Point, as contained in Section 1 of Chapter 501, Session Laws of 1979, is amended by adding a new Article to read:

"ARTICLE VIIA.
"ALTERNATIVE EMINENT DOMAIN PROCEDURE.
"Sec. 7A.1. Eminent domain. In the exercise of the power of eminent domain granted to the City of High Point by this Charter or any other law, public or local, the City may follow the procedures now or hereafter prescribed by said laws; provided, that in the exercise of its authority of eminent domain for the acquisition of land, or easement or interest in land for any public purpose for which the City is authorized to acquire same by condemnation, both within and without its corporate limits the City of High Point is hereby authorized to use the procedure and authority prescribed in Article 9 of Chapter 136 of the General Statutes of North Carolina, as now or hereafter amended; provided, further, that all reference in Article 9 of Chapter 136 of the General Statutes to 'Department of Transportation' shall be deemed to mean 'City of High Point', all reference to the 'Secretary of Transportation' shall be deemed to mean 'City Manager' of the City of High Point, all references to 'Raleigh' shall be deemed to mean 'High Point', and all other reference, directly or by implication, to the condemning authority or persons or agencies connected therewith shall be deemed to mean the City of High Point.

Provided, however, that the provisions of this section shall not apply with regard to properties owned by public service corporations as defined in G.S. 160A-243(c) unless the exercise of such power of eminent domain is either consented to by the owner of the property to be acquired by the City, or otherwise first adjudicated after notice and a hearing that such acquisition will not prevent or unreasonably impair the continued devotion to the public use of such properties and the operation by such public service corporation.

"Sec. 7A.2. Procedure not exclusive. The condemnation procedure set forth in this Article shall not be exclusive, but shall be in addition to any other procedure provided by law. The provisions of this Article shall not apply to any property in Davidson County unless the property is located within the corporate limits of the City of High Point."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1981.

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H. B. 244  \hspace{1cm} \textbf{CHAPTER 214}

AN ACT TO ESTABLISH UNIFORM AGE RANGES IN COMPULSORY SCHOOL ATTENDANCE REQUIREMENTS AND TO DELETE CERTAIN ARCHAIC LANGUAGE, IN STATUTES REGARDING THE GOVERNOR MOREHEAD SCHOOL AND THE SCHOOLS FOR THE DEAF.

Whereas, the 1978 Legislative Research Commission's Committee to Study Public School Laws requested the Department of Human Resources to examine statutes affecting the Governor Morehead School and the Schools for the Deaf toward the end of making the age ranges in those statutes consistent with the general compulsory attendance laws in G.S. 115-366 and G.S. 115-373; and

Whereas, the committee also asked the department to examine certain language in G.S. 115-325 and G.S. 115-340 to determine if it could be deleted; and

Whereas, the Department of Human Resources determined that the age ranges could be standardized and the archaic language deleted; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-321 is amended in line 4 by changing the word "superintendent" to "director".

Sec. 2. G.S. 115-325 is amended by rewriting the first sentence to read as follows: "The Department of Human Resources shall, on application, receive in the institution for the purpose of education all blind children who are residents of this State and who are between the ages of five and 18 years." G.S. 115-325 is further amended by deleting the last sentence.

Sec. 3. G.S. 115-326 is repealed.

Sec. 4. G.S. 115-340 is amended in lines 4 through 6 by deleting the phrase "not of confirmed immoral character, not imbecile or unsound of mind or incapacitated by physical infirmity for useful instruction.", G.S. 115-340 is further amended in line 6 by substituting the words "five and 18 years" for the words "six and 21 years", and in lines 7 and 8 by substituting the phrase "who are not within the age limits set forth above" for the phrase "under the age of six years".

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of April, 1981.

H. B. 333  \hspace{1cm} \textbf{CHAPTER 215}

AN ACT TO AUTHORIZE THE DIVISION OF ARCHIVES AND HISTORY TO PRESERVE HISTORICALLY SIGNIFICANT INFORMATION IN ABANDONED CEMETERIES THAT IS IN DANGER OF LOSS, AS RECOMMENDED BY THE ABANDONED CEMETERIES STUDY COMMITTEE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 121-8 is amended by adding a new subsection (g) to read as follows:

"(g) Abandoned cemeteries.—The Department of Cultural Resources is authorized to take appropriate measures to record and permanently preserve
information of significant historical genealogical or archaeological value when, in the opinion of the Department, any such information located within an abandoned cemetery is in imminent danger of loss or destruction because of the condition or circumstances of the cemetery. The Department may obtain access to any abandoned cemetery for the purpose of recording and preserving information of significant historical, genealogical or archaeological value pursuant to Chapter 15, Article 4A of the General Statutes: Provided, that prior to the requesting of the administrative warrant, the Department shall contact the affected landowners and request their consent for access to their lands for the purpose of gathering such information. If consent is not granted, the Department shall give reasonable notice of the time, place and before whom the administrative warrant will be requested so that the owner or owners may have an opportunity to be heard. Service of this notice may be in any manner prescribed by N.C.G.S. 1A-1 Rule 4(j). Any measures taken by the Department pursuant to this subsection shall be effected in such a manner as to cause as little inconvenience or disruption as possible to the owners of the land upon which the abandoned cemetery is located and of land necessary to obtain access to the cemetery.”

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of April, 1981.

S. B. 114

CHAPTER 216
AN ACT TO AMEND CHAPTER 106, ARTICLE 50 OF THE GENERAL STATUTES, PROMOTION OF USE AND SALE OF AGRICULTURAL PRODUCTS, WITH REGARD TO THE RESEARCH AND PROMOTION PROGRAMS OF THE AMERICAN DAIRY ASSOCIATION OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-557 is amended by deleting the second sentence of said section and inserting in lieu thereof the words “Provided, that the assessment for the research and promotion programs of the American Dairy Association of North Carolina may be fixed on the volume of milk sold not to exceed one percent (1%) of the statewide blend price paid to all North Carolina producers during the previous calendar year for three and one-half percent (3.5%) milk as computed by the North Carolina Milk Commission.”

Sec. 2. Article 50 of Chapter 106 of the General Statutes is amended by adding a new section as follows:

“§106-559.1. Basis of vote.—Notwithstanding any other provision of this Article, any milk product assessment referendum shall be conducted on the basis of one vote per base holder.”

Sec. 3. Article 50 of Chapter 106 of the General Statutes is amended by adding a new section as follows:

“§106-563.1. Supervision of referendum.—Notwithstanding any other provision of this Article, any milk product assessment referendum shall be conducted under the supervision of the County Extension Chairman in each county in which the referendum is held.”
Sec. 4. Article 50 of Chapter 106 of the General Statutes is amended by adding a new section as follows:

"§ 106-567.1. Refund of assessments.—Notwithstanding any other provision of this Article, on and after January 1, 1982, a milk producer shall be entitled to receive a monthly refund of assessments paid by him by making written demand in the first month of each calendar quarter upon the association receiving such assessment."

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of April, 1981.

H. B. 352

CHAPTER 217

AN ACT TO ALLOW RURAL FIRE PROTECTION DISTRICTS TO PROVIDE EMERGENCY MEDICAL, RESCUE, AND AMBULANCE SERVICE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 69-25.4 is amended by adding the following new paragraph at the end:

"For purposes of this Article, the term 'fire protection' and the levy of a tax for that purpose may include the levy, appropriation, and expenditure of funds for furnishing emergency medical, rescue and ambulance services to protect persons within the district from injury or death; and the levy, appropriation, and expenditure of the tax to provide such services are proper, authorized and lawful. In providing these services the fire district shall be subject to G.S. 153A-250."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of April, 1981.

H. B. 410

CHAPTER 218

AN ACT TO AMEND G.S. 90-113.3(c)(3) TO PERMIT CONTRACTING BETWEEN THE DEPARTMENT OF HUMAN RESOURCES AND ANY DISTRICT ATTORNEY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-113.3(c)(3) is hereby amended in its first line by placing the words "any district attorney" after "agencies," and before ", institutions".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of April, 1981.
H. B. 406 CHAPTER 219

AN ACT TO CHANGE THE FORM OF PETITION TO FORM A NEW PARTY AND TO REDUCE THE SIGNATURE REQUIREMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-96(a)(2), as the same appears in Volume 3D of the General Statutes, is amended by deleting the number "10,000", and inserting in lieu thereof the number "5,000", and by adding the following language immediately after the first sentence: "Also the petition must be signed by at least 200 registered voters from each of four Congressional Districts in North Carolina."

Sec. 2. G.S. 163-96(b), as the same appears in Volume 3D of the General Statutes, is amended by deleting the first paragraph and substituting in lieu thereof the following:

"Petitions for New Political Party.—Petitions for the creation of a new political party shall contain on the heading of each page of the petition in bold print or all in capital letters the words: 'THE UNDERSIGNED REGISTERED VOTERS IN ******************** COUNTY HEREBY PETITION FOR THE FORMATION OF A NEW POLITICAL PARTY AND DO HEREBY REQUEST AND DIRECT THE COUNTY BOARD OF ELECTIONS TO CHANGE OUR POLITICAL PARTY AFFILIATION TO THE ********************PARTY IMMEDIATELY FOLLOWING CERTIFICATION OF THE NEW PARTY BY THE STATE BOARD OF ELECTIONS. THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE STATE CHAIRMAN OF THE PROPOSED PARTY IS: ********************, THE SIGNERS OF THIS PETITION INTEND TO ORGANIZE A NEW POLITICAL PARTY TO PARTICIPATE IN THE NEXT SUCCEEDING GENERAL ELECTION.'

All printing required to appear on the heading of the petition shall be in type no smaller than 10 point. In addition to the form of the petition, the organizers and petition circulators shall inform the signers of the petition that they shall have their current affiliation changed by signing the petition, provided the new party is certified."

Sec. 3. G.S. 163-96 is amended by adding a new subsection (c) to read:

“(c) Upon receiving a petition for verification under subsection (b), the county board of elections shall make and keep a copy of the names of registered voters of that county whose names appear on the petition. If the State Board of Elections determines under subsection (a) that the petitions are sufficient it shall notify the county boards of elections, which shall change those voters’ party affiliation or unaffiliated status to affiliation with the new political party and thereafter promptly notify all such voters by mail that their political party affiliation has been changed in accordance with their direction by signing the petition. The State Board of Elections shall prescribe the form of the petition and promulgate rules to implement this subsection.”

Sec. 4. G.S. 163-74(b) is amended by adding the following new language at the end:

“Party affiliation may also be changed as provided in G.S. 163-96(c).”

Sec. 5. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 17th day of April, 1981.
H. B. 520

CHAPTER 220

AN ACT TO CLARIFY WHEN CANDIDATES ARE DECLARED NOMINATED WITHOUT A PRIMARY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-110 is amended by rewriting the catch line and first sentence to read:

"§ 163-110. Candidates declared nominees without primary.—If a nominee for a single office is to be selected and only one candidate of a political party files for that office, or if nominees for two or more offices (constituting a group) are to be selected, and only the number of candidates equal to the number of the positions to be filled file for a political party for said offices, then the appropriate board of elections shall, upon the expiration of the filing period for said office, declare such persons as the nominees or nominee of that party, and the names shall not be printed on the primary ballot, but shall be printed on the general election ballot as candidate for that political party for that office."

Sec. 2. The last sentence of G.S. 163-110 is repealed.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of April, 1981.

H. B. 526

CHAPTER 221

AN ACT TO ESTABLISH MINIMUM COMPENSATION FOR SUPERVISORS OF ELECTIONS IN MODIFIED FULL-TIME REGISTRATION COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-35(c) is rewritten to read:

"(c) Compensation in modified counties.—The supervisor of elections shall be paid compensation as recommended by the county board of elections and approved by the board of county commissioners. Beginning July 1, 1981 in any county operating under modified registration plan A, B, C, or D, the board of county commissioners shall compensate the supervisor of elections with a minimum of five dollars ($5.00) per hour for the hours required by law for the supervisor to be in attendance to her prescribed duties. In addition to the minimum compensation required herein, the supervisor of elections to the county board of elections shall be granted the same vacation leave, sick leave and petty leave as granted to all other county employees. It shall also be the responsibility of the board of county commissioners to appropriate sufficient funds to compensate a replacement for the supervisor of elections when authorized leave is taken."

Sec. 2. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 17th day of April, 1981.
CHAPTER 222  Session Laws—1981

H. B. 575  CHAPTER 222
AN ACT TO MAKE VOID VOTER REGISTRATION APPLICATIONS WHEN CERTAIN PROVISIONS OF G.S. 163-72 ARE NOT FOLLOWED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-72(f) is hereby rewritten to read as follows:

“(f) The application of any individual who is registered by a procedure other than as set out in subsections (d) and (e) of this section shall be void.”

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of April, 1981.

S. B. 344  CHAPTER 223
AN ACT TO AMEND THE CITY OF WILMINGTON CHARTER REGARDING REVISIONS OR AMENDMENTS TO ORDINANCES AND RESOLUTIONS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 495, Session Laws of 1977, being the Charter of the City of Wilmington, is amended by repealing Section 7.4 of the Charter.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of April, 1981.

S. B. 175  CHAPTER 224
AN ACT TO EXCLUDE ALLOTMENTS AS SEPARATE VALUE OF AD VALOREM TAXATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-317(a)(1) is amended by adding a new sentence at the end thereof as follows:

“Acreage or poundage allotments for any farm commodity shall not be listed as a separate element for taxation in the appraisal and assessment of real property for Ad Valorem Taxes, but may be considered as a factor in determining true value.”

Sec. 2. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 22nd day of April, 1981.

S. B. 216  CHAPTER 225
AN ACT TO RAISE THE LIMIT ON THE AMOUNT THAT MAY BE CONTRIBUTED TO A POLITICAL CAMPAIGN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-278.13 is amended in subsections (a), (b) and (c) by deleting in each subsection the words and numbers “three thousand dollars ($3,000)” and substituting “four thousand dollars ($4,000)”.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of April, 1981.
Session Laws—1981   CHAPTER 228

S. B. 303   CHAPTER 226
AN ACT TO AMEND G.S. 130-166.54(a) OF THE DRINKING WATER ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-166.54(a) is hereby amended by deleting the reference to “G.S. 130-166.52” and substituting in lieu thereof “G.S. 130-166.53.”

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of April, 1981.

H. B. 301   CHAPTER 227
AN ACT TO AMEND G.S. 20-64 CONCERNING REFUNDS FOR UNEXPIRED REGISTRATION PLATES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-64(f) is hereby rewritten to read as follows:
“(f) The owner or transferor of a registered vehicle who surrenders the registration plate to the division may secure a refund for the unexpired portion of such plate prorated on a monthly basis, beginning the first day of the month following surrender of the plate to the division, provided the annual fee of such surrendered plate is sixty dollars ($60.00) or more. This refund may not exceed one-half of the annual license fee. No refund shall be made unless the owner or transferor furnishes proof of financial responsibility on the registered vehicle effective until the date of the surrender of the plate. Proof of financial responsibility shall be furnished in a manner prescribed by the commissioner. Any unauthorized refund may be recovered in the manner set forth in G.S. 20-99.”

Sec. 2. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 22nd day of April, 1981.

H. B. 466   CHAPTER 228
AN ACT TO ALLOW THE TOWN OF FARMVILLE AND THE TOWN OF FOUNTAIN TO COLLECT ON MOTOR VEHICLES A TAX OF NOT MORE THAN FIVE DOLLARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-97(a) is amended by adding immediately after the words “Town of Stoneville” each time they appear the words “, the Town of Farmville, the Town of Fountain”.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of April, 1981.
H. B. 51  

CHAPTER 229

AN ACT TO PERMIT THE BOARD OF DIRECTORS OF A BUSINESS DEVELOPMENT CORPORATION TO NEGOTIATE THE RATE OF INTEREST PAYABLE ON LOANS BY MEMBERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 53A-6(5) is rewritten to read:

"All loans to the corporation by members shall be evidenced by bonds, debentures, notes or other evidences of indebtedness of the corporation, which shall be freely transferable at all times and which shall bear interest at a rate negotiated by the board of directors."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of April, 1981.

S. B. 118  

CHAPTER 230

AN ACT TO AMEND G.S. 89C TO INCREASE FEES AND FOR CLARIFICATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 89C-14(e) is amended by deleting the words and figures "shall not exceed twenty dollars ($20.00)" and inserting in lieu thereof the words and figures "shall not exceed thirty dollars ($30.00)."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of April, 1981.

H. B. 489  

CHAPTER 231

AN ACT TO ALLOW MECKLENBURG COUNTY TO APPROPRIATE FUNDS OTHER THAN AD VALOREM TAX FUNDS FOR CERTAIN PROGRAMS.

The General Assembly of North Carolina enacts:

Section 1. A county may, in addition to the authority granted in G.S. 153A-255, appropriate funds other than ad valorem tax revenues to social service programs furthering the health, welfare, education, safety, comfort and convenience where poverty is not a criteria for participation, which programs can provide services broader than the basic necessities of life.

Sec. 2. This act applies to Mecklenburg County only.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of April, 1981.
H. B. 578  

CHAPTER 232

AN ACT TO RAISE THE CEILING ON THE DOLLAR AMOUNT OF CLAIMS AGAINST THE CITY OF LUMBERTON FOR WHICH THE CITY MANAGER MAY SETTLE.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 115 of the Session Laws of 1963, being the Charter of the City of Lumberton, is amended in Section 1(c) of Article XIV of the Charter by deleting the words “five hundred dollars ($500.00)”, and inserting in lieu thereof the words “one thousand dollars ($1,000)” in both places where the words appear in said section.

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 22nd day of April, 1981.

H. B. 589  

CHAPTER 233

AN ACT TO PROVIDE AUTHORITY TO MECKLENBURG COUNTY, THE CITY OF CHARLOTTE, AND THE CHARLOTTE-MECKLENBURG BOARD OF EDUCATION TO SUPPORT NONCOMMERCIAL TELEVISION OR RADIO STATIONS.

The General Assembly of North Carolina enacts:

Section 1. As used in this act the following terms have the meanings specified:

(1) “Support” includes but is not limited to providing funds for: acquisition, construction and renovation of buildings or other structures used in telecommunications, including acquisition or lease of land and other property therefor; production of, or purchase or lease of programs, projects and services produced by others of a noncommercial educational, informational, cultural or scientific nature; acquisition, lease or purchase of materials and equipment; compensation of personnel; and all other operating and maintenance expenses for the operation of a noncommercial television or radio station.

(2) “Telecommunications” means any origination, creation, transmission, emission, storage-retrieval, or reception of signs, signals, writing, images and sounds, or intelligence of any nature, by wire, radio, television, optical or other electromagnetic systems.

Sec. 2. A county, city, or school administrative unit is authorized to support or to establish and support television or radio stations engaged primarily in providing telecommunications programming and services for noncommercial informational, educational, cultural, or scientific purposes.

Sec. 3. A county, city, or school administrative unit may contract with any other political subdivision of the State of North Carolina, with any governmental agency, or with any public or nonprofit private association, corporation or organization to establish or to operate noncommercial television or radio stations; and may appropriate funds to any such political subdivision, governmental agency, or public or nonprofit private association, corporation or organization for the purpose of establishing, operating or supporting such noncommercial television or radio stations.

Sec. 4. In the event funds appropriated for the purpose of this act are turned over to any other political subdivision of the State of North Carolina,
any other governmental agency, or any public or nonprofit private association, corporation or organization for expenditure, no such expenditure shall be made until the governmental unit making the appropriation has approved the budget of the entity to which said funds are turned over for expenditure, and all such expenditures shall be accounted for by the political subdivision, governmental agency, association, corporation or organization at the end of the fiscal year for which they were appropriated.

Sec. 5. For the purposes set forth in this act, a county, city, or school administrative unit may appropriate funds not otherwise limited as to use by law.

Sec. 6. This act applies to Mecklenburg County, the City of Charlotte, and the Charlotte-Mecklenburg Board of Education only.

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of April, 1981.

H. B. 596

CHAPTER 234

AN ACT TO ALLOW SAMPSON COUNTY TO CONVEY AT PRIVATE SALE THE NEWTON GROVE MEDICAL CENTER AND THE FOUR COUNTY MEDICAL CENTER TO RURAL MEDICAL SERVICES, INC.

The General Assembly of North Carolina enacts:

Section 1. Sampson County is authorized to convey at private sale without monetary consideration all its right, title and interest to all of the real and personal property of the Newton Grove Medical Center and the Four County Medical Center, to Rural Medical Services, Inc.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of April, 1981.

H. B. 613

CHAPTER 235

AN ACT TO PROVIDE THAT MEMBERS OF THE CHARLOTTE-MECKLENBURG BOARD OF EDUCATION SHALL RECEIVE THE SAME MILEAGE ALLOWANCE AS STATE OFFICERS AND EMPLOYEES.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 445, Session Laws of 1977 is amended by deleting the words "fifteen cents (15¢) per mile", and inserting in lieu thereof "an allowance at the same rate per mile as provided in G.S. 138-6(a)(1)".

Sec. 2. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 22nd day of April, 1981.
AN ACT TO EXPAND THE HYDE COUNTY BOARD OF COMMISSIONERS FROM THREE TO FIVE MEMBERS.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 1141, Session Laws of 1949, is rewritten to read:

"Sec. 1. Hyde County is divided into five districts as follows:
(1) District one: Currituck Township;
(2) District two: Fairfield Township and Mattamuskeet Township;
(3) District three: Ocracoke Township;
(4) District four: Swan Quarter Township;
(5) District five: Lake Landing Township."

Sec. 2. Section 2 of Chapter 1151, Session Laws of 1949, as amended by Chapter 281, Session Laws of 1977, is repealed.

Sec. 3. Section 3 of Chapter 1151, Session Laws of 1949, as amended by Chapter 281, Session Laws of 1977, is rewritten to read:

"Sec. 3. In the 1982 county election and quadrennially thereafter, one commissioner each shall be elected from districts one and four, for a four-year term. In the 1982 election, one commissioner each shall be elected for a two-year term from districts two and five, and in the 1984 election and quadrennially thereafter, one commissioner each shall be elected from districts two and five for a four-year term. In the 1984 election and quadrennially thereafter, one commissioner shall be elected from district three for a four-year term."

Sec. 4. Section 4 of Chapter 1151, Session Laws of 1949, is rewritten to read:

"Sec. 4. Members shall reside in and represent the districts established by this act, but the qualified voters of the entire county shall nominate all candidates for and elect all members of the board."

Sec. 5. The commissioner elected in 1980 for old district two shall serve until the first Monday in December of 1984. The commissioners elected in 1978 for old districts one and three shall serve until the first Monday in December of 1982.

Sec. 6. The Board of Commissioners of Hyde County consists of five members.

Sec. 7. Sections 1 and 4 of this act shall become effective beginning with the 1982 election. Sections 2, 3, and 5 of this act are effective upon ratification. Section 6 of this act shall become effective on the first Monday in December of 1982.

In the General Assembly read three times and ratified, this the 22nd day of April, 1981.
AN ACT TO ALLOW THE UNION COUNTY BOARD OF EDUCATION TO PAY ITS TEN-MONTH EMPLOYEES ON OR BEFORE THE FIFTEENTH DAY OF EACH MONTH.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of Chapter 115 of the General Statutes, the Union County Board of Education may pay employees who are employed on a ten-month basis on or before the fifteenth day of each month during which they are employed.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of April, 1981.

AN ACT TO ALLOW STAGGERED TERMS FOR DISTRICT BOARDS OF HEALTH.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-14 is amended by adding a new subdivision (d) and relettering the remaining existing subdivisions. The new subdivision (d) shall read as follows:

“In those districts which do not have a staggered term structure, the county commissioner members of the district board, upon the expiration of the term of any member, may reappoint the member or appoint his successor to a one, two or three year term as appropriate to achieve a staggered term structure.”

Sec. 2. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 22nd day of April, 1981.

AN ACT RELATING TO PRIMA FACIE RULE OF EVIDENCE FOR ENFORCEMENT OF PARKING REGULATIONS IN MECKLENBURG COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-162.1 is amended by deleting the words and figures “one dollar ($1.00)” as the same appears in the second paragraph and substituting in lieu thereof the words and figures “not to exceed five dollars ($5.00)”.

Sec. 2. This act applies to Mecklenburg County only.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of April, 1981.
H. B. 359  
CHAPTER 240
AN ACT TO AMEND G.S. 20-81 RELATING TO THE REGISTRATION OF MOTOR VEHICLES BY DIPLOMATIC OFFICIALS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-81 is hereby amended by adding a new subdivision to be designated (6) to read as follows: 

"(6) Consular and diplomatic officials. Official plates shall be issued upon request to an accredited consul, honorary consul, or diplomatic officer of a foreign government, if the person requesting the plate is a national of the country by which he is appointed. The plate shall bear the letters 'Consul' followed by the international alphabetical designation for the country represented by the consul or diplomatic officer and followed by a numerical designation beginning with the number '1' and followed sequentially based on the number of applicants. Every application for a registration plate under this subsection shall be accompanied by a certificate from the Secretary of State of the United States or his agent that the applicant is an accredited consul, honorary consul, or diplomatic officer."

Sec. 2. This act shall become effective January 1, 1982. In the General Assembly read three times and ratified, this the 23rd day of April, 1981.

H. B. 482  
CHAPTER 241
AN ACT TO MODIFY THE RALEIGH CIVIL SERVICE ACT.

The General Assembly of North Carolina enacts:

Section 1. Short title; purpose. This act may be cited as the Raleigh Civil Service Act. The general purpose of this act is to establish for the City of Raleigh a system of personnel administration based on merit principles.

Sec. 2. Personnel system. (a) Classified service and exceptions. The classified service of the City of Raleigh shall comprise all positions in the city service except the following which are exempt from this act:

(1) Elected officials.

(2) Employees or officials appointed by the city council or appointed by the city manager and approved by the city council and their immediate secretaries.

(3) Department heads, division heads and their immediate secretaries.

(4) Part-time or nonpermanent officers or employees.

(5) Employees serving the probationary period before becoming permanent employees.

(6) Any employee applying for promotion to one of the positions listed in subdivisions (2) through (4) of this section insofar as the promotion is concerned.

(b) Administration. The personnel system of the city shall be administered by an employee appointed and subject to the direction and supervision of the city manager.

(c) Personnel rules. The employee administering the personnel system shall prepare personnel rules. These rules shall include a listing of all positions by job classification which are exempted from the classified service by virtue of subsection (a). An employee's official position shall be that official job classification assigned to him as a result of his hiring or most recent promotion.
or demotion. Informal working titles shall not be used to determine the exempt status of any employee. The city manager shall refer such proposed rules to the Civil Service Commission, which shall report to the manager its recommendation thereon. The rules, including the recommendation of the Civil Service Commission and the recommendation of the city manager, shall be presented to the city council. The council, upon consideration of the recommendations, shall adopt the official personnel rules.

Sec. 3. Organization of Commission. (a) Creation. There is hereby created a Civil Service Commission for the city which shall be composed of seven members, all of whom shall be qualified voters of the city, and shall take the oath prescribed by law. Five members of the Commission shall be appointed by the city council from the following classifications: one member shall be an attorney licensed to practice law in North Carolina; two members shall be individuals actively engaged in the management of a private business or industry; and two members shall be from the public at large. The other two members of the Commission shall be elected by the employees at large of the city who are subject to this act. The election of members by employees shall be under written procedures established by the city council. No member of the Commission shall be a city employee or officer nor shall any member be related to any city employee or officer. The chairman of the Commission shall be designated by the city council and serve as chairman at the pleasure of the council.

(b) Term of office; vacancy and classification. Members of the Commission shall serve terms of four years unless reappointed or reelected; provided, however, three initial members (one appointed by the city council from the management classification, one appointed by the city council from the public classification, and one elected by the employees of the city) shall serve for a term of two years.

The city council shall have the right to remove from office any member of the Commission, but only for malfeasance or failure to perform the duties required for the office. The Commission shall not have power to remove its own members. If a vacancy in the membership occurs through resignation or otherwise, a new member (from the same classification as the vacancy occurs) shall be appointed or elected to fill the unexpired term. Membership on the Commission may be held in addition to the number of offices permitted in G.S. 128-1.1.

Sec. 4. Merit principle and policy. All appointments, retentions and promotions of city officers and employees covered by this act shall be made solely on the basis of fitness and merit.

Sec. 5. Appeal board. The Civil Service Commission shall act as an appeal board to hear all appeals of employees regarding violation of city policy, relating to suspensions, layoff, removal, promotions, forfeiture of pay or loss of time, but the Commission shall have no jurisdiction to hear an appeal until all administrative remedies have been exhausted pursuant to the city’s established grievance procedure. The Commission shall have no jurisdiction to hear matters involving lateral transfers unless it finds that such transfer was in effect a demotion. The Commission shall have the authority to affirm, modify, or reverse, as it deems necessary, those actions over which it has jurisdiction; provided, however, the Commission may not institute any action that will affect the right of other employees without first making all such employees a
party to the proceeding. The Commission shall hear no appeals based on a failure to be promoted until the City Manager has completed the formal procedure for filling the vacancy and has named a person to fill the vacant position. Any modification or reversal of an administrative officers’ decision or any other decision by the Commission shall require four affirmative votes. The Commission shall not have the authority to award actual damages, except salary adjustment and back pay. It shall not have the authority to award punitive damages. Reasonable attorney fees may be awarded upon the rendering of a decision or settlement in favor of the petitioning employee.

Sec. 6. Appeal procedure. (a) Right of Appeal. Any employee subject to the provisions of this act who has pursued a complaint that is subject to the Commission’s authority through the established city grievance procedure, and who is dissatisfied with the decision of the administrative process may appeal that decision to the Civil Service Commission. Such appeal must be made within 30 days of the receipt of notice of the administrative decision.

(b) Request for Hearing. A request for hearing before the Commission must contain the following information:
1. The name, address, and telephone number of the person on whose behalf the request is being made.
2. The position held or applied for by the employee.
3. The number of years the employee has been continuously employed by the city.
4. The name of the department against whom the complaint is being brought.
5. The nature of the complaint (e.g. racial discrimination in promotion, dismissal without justifiable cause, etc.)
6. A concise statement of the facts necessary to an understanding of the situation upon which the complaint is based.
7. A statement of the relief desired.

The employee shall send a copy of this letter to the City Personnel Director.

(c) Duties and Responsibilities of the City Administration. Within 15 days after an employee has requested a hearing, the city department involved must submit a letter to the Commission which includes the following:
1. The name of the employee against whom the action was taken.
2. The position last held by the employee.
3. The number of years of continuous city employment prior to the action taken.
4. The nature of the action taken (e.g. dismissal).
5. A special reference to the statute or policy under which the action was taken.
6. A concise statement of the fact situation which led to the action.

Sec. 7. Practice Before the Commission. (a) Rules of Evidence. Evidence will be admitted in accordance with the provisions of the State Administrative Procedure Act unless both parties agree to the use of the strict rules of evidence as used in the General Court of Justice. The testimony of all witnesses shall be taken under oath or a solemn affirmation.

(b) Notice of Hearing. No less than 21 days before the hearing, both parties will receive a written notice of hearing, giving the date, time and location of the hearing and a statement of the issue to be resolved at the hearing.
(c) Subpoena. The Commission is authorized to issue subpoenas upon a written request by either party. When such written request is made, the Commission shall issue subpoena forthwith requiring the attendance and testimony of witnesses and the production of evidence including books, records, correspondence, and documents in their possession or under their control. On written request, the Commission shall revoke a subpoena if, upon a hearing the Commission finds that the evidence, the production of which is required, does not relate to a matter in the issue, or if the subpoena does not describe with sufficient particularity the evidence the production of which is required, or if for any other reason sufficient in law the subpoena is invalid. The Commission shall not have the power to issue subpoenas on its own motion.

(d) Conduct of Hearing. The hearing itself shall be conducted very similarly to a trial. Both parties shall be allowed to make opening statements, which serve as outlines for what each party hopes to establish at the hearing. After the opening statements (which are optional), the employee shall present his evidence. After the employee has presented his evidence, the city shall present its evidence. If, after the city has presented its evidence, the employee wishes to present further evidence to the Commission to rebut evidence offered by the city, he may do so. All witnesses shall be sworn, and their testimony shall be recorded. Both oral testimony and documentary evidence may be presented to the Commission. Each party shall have an opportunity to cross-examine the witnesses of the opposing party. The Commission may neither call witnesses nor gather evidence to be presented for either party. It shall not act as an attorney for either party. The members of the Commission may ask questions of the witnesses to clarify factual situations and to obtain background facts necessary to a determination of the issues. Only those issues raised in the request for hearing may be heard and determined by the Commission. All questions of procedure and evidence shall be addressed to and decided by the Chairman whose ruling shall be binding unless a member of the Commission objects to such ruling. Upon objection, a majority of the Commission shall decide the question.

(e) Burden of Proof. The employee has the burden, by the greater weight of the evidence, to prove that the action taken against him was unjustified. If the employee alleges discrimination in the action taken, then the employee must present sufficient evidence to establish by the greater weight of the evidence that the city did discriminate against him. The burden of proof has no effect on the order of presentation of evidence, which is always employee, city, employee.

(f) Closing Statements. After all witnesses and evidence have been presented, each party may, if it chooses, make a closing statement. This is a summary of the evidence a party has presented at the hearing and what conclusions the party feels that evidence shows. The party with the burden of proof shall have the last closing statement.

(g) Decision. Once the hearing is concluded, the Commission shall consider all the evidence and issue a written proposal for decision. Each party shall be sent a copy of this proposal by certified mail. If either party disagrees with the proposal, it may, within five days request to appear before the Commission at its next meeting and present its position to the Commission. These appearances shall be limited to a 15 minute oral argument, although a party may also submit written arguments in favor of its position. The Commission shall hear no evidence at this hearing. The Commission shall consider all material before it
and shall issue a final decision within a reasonable time, generally within five working days after the Commission meeting. If a party objects to the Commission's decision, that party may appeal the Commission's decision to the Wake County Superior Court under the provisions of Article 4 of Chapter 150A of the General Statutes. This appeal must be taken within 15 days after the party receives notice of the Commission's decision.

Sec. 8. Effect of Disciplinary Action. The procedure for administrative appeal in the event of suspension, layoff, or removal from employment shall be established by personnel rules under the provisions of Section 2(c) of this act. However, in the event of reinstatement the affected employee shall be considered as uninterrupted in service.

Sec. 9. Discrimination Prohibited. No person in the service to the city or seeking admission thereto shall in any way be discriminated against because of race, creed, or color, or because of political or labor affiliations, or because of sex or marital status.

Sec. 10. Participation in Elections. No appointed officer or employee of the city shall in any manner contribute to, participate or take part in any election, primary or any political contests, other than exercising his right to vote; provided, the foregoing prohibition shall apply only to those elections, primaries or political contests for offices of the city. Any person violating the provisions of this section shall be guilty of a misdemeanor punishable by imprisonment for up to 90 days or a fine of up to two hundred dollars ($200.00), or both, in the discretion of the court and shall, upon conviction, be discharged from the service of the city.

Sec. 11. Meetings. All meetings of the Civil Service Commission shall be called and conducted according to the procedures governing public meetings found in Article 33C of Chapter 143, and in Chapter 160A of the North Carolina General Statutes.

Sec. 12. Severability Clause. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be invalid such decision shall not affect the validity of the remaining portions thereof. The General Assembly hereby declares that it would have passed this act and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

Sec. 13. Sections 1 and 2 of Chapter 1154, Session Laws of 1971 are repealed, and any matters pending before the Commission established under that act are transferred to the Commission established by this act for action and disposition.

Sec. 14. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of April, 1981.
CHAPTER 242  Session Laws—1981

S. B. 208  CHAPTER 242

AN ACT TO PROVIDE FOR INTEREST TO RUN ON WORKERS' COMPENSATION AWARDS.

The General Assembly of North Carolina enacts:

Section 1. A new section, G.S. 97-86.2, is added to read as follows: "§ 97-86.2. Interest on awards after hearing.—When, in a worker's compensation case, a hearing or hearings have been held and an award made pursuant thereto, if there is an appeal from that award by the employer or carrier which results in the affirmance of that award or any part thereof which remains unpaid pending appeal, the insurance carrier or employer shall pay interest on the final award from the date the initial award was filed at the Industrial Commission until paid at the legal rate of interest provided in G.S. 24-1. If interest is paid it shall not be a part of, or in any way increase attorneys' fees, but shall be paid in full to the claimant."

Sec. 2. This act is effective upon ratification and applies to awards made on and after that date.

In the General Assembly read three times and ratified, this the 23rd day of April, 1981.

S. B. 294  CHAPTER 243

AN ACT TO ALLOW A REFERENDUM ON REPEAL OF A HOSPITAL TAX LEVIED UNDER ARTICLE 13C OF CHAPTER 131 OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. Article 13C of Chapter 131 of the General Statutes is amended by adding a new section to read:

"§ 131-126.38B. Referendum on repeal of tax levy.—(a) The board of commissioners of the county in which a hospital district was created under the provisions of this Article may, if a tax levy was authorized by referendum under G.S. 131-126.38, call a referendum on November 3, 1981, on the repeal of the authority to levy a tax. Such referendum may be called only if there are no outstanding general obligation bonds of the district.

(b) The question on the ballot shall be:

☐ FOR removal of the right of the board of county commissioners to levy and collect a tax in ________ Hospital District.

☐ AGAINST removal of the right of the board of county commissioners to levy and collect a tax in ________ Hospital District'.

(c) The referendum shall be conducted in the same manner as bond elections held under G.S. 159-61. No new registration of voters shall be required.

(d) If a majority of the votes cast are in favor of the question, then beginning on the first day of the fiscal year following the date of the referendum, the board of county commissioners shall have no authority to levy a tax in the hospital district unless the voters approve under G.S. 131-126.38. No such referendum may be held within one year of the date of a referendum under this section."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of April, 1981.
S. B. 363  
CHAPTER 244  
AN ACT TO PROVIDE THAT BEGINNING IN 1986, THE SAMPSON COUNTY BOARD OF EDUCATION SHALL TAKE OFFICE IN JULY.  
The General Assembly of North Carolina enacts:  
Section 1. G.S. 115-22 is amended by deleting the word "December," and inserting in lieu thereof the word "July."  
Sec. 2. This act shall apply only to the Sampson County Board of Education.  
Sec. 3. This act shall become effective July 1, 1986.  
In the General Assembly read three times and ratified, this the 23rd day of April, 1981.  

S. B. 160  
CHAPTER 245  
AN ACT TO REDUCE THE TIME PERMITTED FOR FILING ANSWER IN CONDEMNATION PROCEEDINGS INSTITUTED BY THE NORTH CAROLINA DEPARTMENT OF ADMINISTRATION.  
The General Assembly of North Carolina enacts:  
Section 1. Subsection (c) of G.S. 146-24 is amended by adding a proviso at the end thereof to read as follows:  
"Provided that when the procedures of Article 9 of Chapter 136 are employed by the department, any person named in or served with a complaint and declaration of taking shall have 120 days from the date of service thereof within which to file answer."  
Sec. 2. G.S. 136-107 is amended by adding a proviso at the end thereof to read as follows:  
"Provided that when the procedures of Article 9 of Chapter 136 are employed by the Department of Administration, any person named in or served with a complaint and declaration of taking shall have 120 days from the date of service thereof within which to file an answer."  
Sec. 3. This act is effective upon ratification.  
In the General Assembly read three times and ratified, this the 24th day of April, 1981.  

S. B. 257  
CHAPTER 246  
AN ACT TO INCORPORATE THE TOWN OF BEECH MOUNTAIN, AND TO AUTHORIZE ITS GOVERNING BOARD TO SERVE EX OFFICIO AS THE GOVERNING BOARD OF THE BEECH MOUNTAIN SANITARY DISTRICT.  
The General Assembly of North Carolina enacts:  
Section 1. The Charter of the Town of Beech Mountain is enacted to read:  
"THE CHARTER OF THE TOWN OF BEECH MOUNTAIN.  
"ARTICLE I.  
"INCORPORATION AND CORPORATE POWERS.  
"Sec. 1.1. Incorporation and Corporate Powers. The inhabitants of the Town of Beech Mountain are a body corporate and politic under the name of the 'Town of Beech Mountain'. Under that name they have all the powers, duties,
rights, privileges and immunities conferred and imposed on cities by the general law of North Carolina.

"ARTICLE II.
"CORPORATE BOUNDARIES.

"Sec. 2.1. Corporate Boundaries. The corporate boundaries of the Town of Beech Mountain shall be as follows until changed in accordance with law: BEGINNING on a concrete monument, corner of W. T. Elder and Carolina Caribbean Corporation’s original boundary (hereinafter called CCC), said monument being located in the ‘Meadow’ atop Beech Mountain, said monument being located North 75 degrees 29 minutes East, 2942.64 feet from USGS station ‘Beech’. Thence, with two original CCC lines South 82 degrees 23 minutes West, 1242.13 feet to a monument and South 72 degrees 40 minutes West, 1222.50 feet to a corner of Rockledge Florida Corp. Thence, with Rockledge Florida Corp. lines as follows: South 23 degrees 37 minutes East, 200.00 feet; South 73 degrees 25 minutes West, 309.44 feet; South 61 degrees 27 minutes West, 255.46 feet, South 70 degrees 31 minutes West, 200.47 feet and North 66 degrees 06 minutes West, 164.70 feet; thence two lines crossing Rockledge Florida Corp. and Mary Frisbee properties North 20 degrees 00 minutes East 660.00 feet and North 43 degrees 43 minutes West, 5281.27 feet to a corner of the Calvin property. Thence, with the Calvin line North 02 degrees 49 minutes East, 790.59 feet to a concrete monument. Thence, a line across CCC property North 32 degrees 22 minutes West, 13,098.03 feet to an original CCC corner. Thence, with original CCC lines as follows: North 33 degrees 10 minutes West, 1542.84 feet; North 86 degrees 40 minutes West, 386.03 feet, South 34 degrees 04 minutes West, 349.21 feet; North 45 degrees 40 minutes West, 436.55 feet; North 35 degrees 15 minutes West, 197.10 feet and South 89 degrees 53 minutes West 776.07 feet to an iron stake; thence, a line across the original CCC property North 25 degrees 13 minutes East, 1896.65 feet to an original corner; thence, with an original CCC line North 23 degrees 21 minutes East, 470.55 feet; thence a line across the original CCC property South 76 degrees 45 minutes East 4279.13 feet to an original corner; thence, with an original CCC line South 70 degrees 50 minutes East, 950.00 feet to a point in Buckeye Creek. Thence, three lines across the original CCC property North 82 degrees 13 minutes East, 1238.05 feet; South 61 degrees 57 minutes East, 2662.05 feet and South 30 degrees 25 minutes East, 3232.18 feet; thence, with original CCC boundary lines as follows: North 87 degrees 39 minutes East, 355.90 feet; South 88 degrees 48 minutes East, 670.94 feet, South 70 degrees 53 minutes East, 451.92 feet; South 01 degrees 34 minutes West, 183.51 feet; South 29 degrees 13 minutes East, 989.13 feet; North 89 degrees 17 minutes East, 544.16 feet; North 47 degrees 19 minutes East, 110.92 feet; South 88 degrees 28 minutes East, 1210.29 feet; North 01 degrees 39 minutes West, 1100.74 feet; South 79 degrees 29 minutes East, 1180.33 feet; South 10 degrees 49 minutes East, 316.93 feet, South 54 degrees 22 minutes East, 868.41 feet; South 04 degrees 17 minutes West, 275.84 feet; South 87 degrees 43 minutes East 1698.13 feet and South 3113.00 feet to an original CCC corner. Thence, two lines across original CCC property South 39 degrees 10 minutes East, 1393.15 feet to a point in Sawmill Branch and South 85 degrees 00 minutes East, 200.00 feet to an original corner. Thence, with two original CCC lines North 89 degrees 33 minutes East, 489.02 feet and South 05 degrees 25 minutes West, 977.20 feet to an original corner. Thence, a line across original CCC property South 03 degrees 44 minutes West, 2536.78 feet to a
point in the Edelstein Property, thence with the Edelstein property the following courses and distances: North 63 degrees 46 minutes East, 800.24 feet; thence South 52 degrees 52 minutes East, 310.25 feet to an iron; thence South 76 degrees 04 minutes East, 426.22 feet to the center of an old woods road; thence with the center of said road and with the Watson line as follows: South 61 degrees 34 minutes East, 226.72 feet; South 52 degrees 24 minutes East, 85.39 feet; South 47 degrees 33 minutes East, 136.49 feet and South 22 degrees 35 minutes East, 205.93 feet; thence leaving road South 60 degrees 32 minutes West, 967.05 feet to a concrete monument, the corner to Bill Elder; thence with the Elder line North 85 degrees 44 minutes West, 1076.37 feet to a point in the original CCC line and W. T. Elder line; thence with the CCC-Elder line South 07 degrees 11 minutes West, 905.44 feet; North 85 degrees 22 minutes West, 1002.49 feet; South 00 degrees 49 minutes East, 327.68 feet; North 87 degrees 24 minutes West, 2491.09 feet and South 00 degrees 30 minutes West, 2902.63 feet to the point and place of BEGINNING.

The above described tract contains 4136.19 plus or minus acres.

"ARTICLE III.

"GOVERNING BODY.

"Sec. 3.1. Name of Governing Body; Number of Members. The governing body of the Town of Beech Mountain is the Town Council, which consists of five (5) members.

"Sec. 3.2. Manner of Election of Town Council. The qualified voters of the Town of Beech Mountain voting at large shall elect the members of the Town Council.

"Sec. 3.3. Terms of Office. Members of the Town Council are elected to two-year terms which shall run concurrently.

"Sec. 3.4. Mayor; Term of Office. The Mayor shall be the councilman receiving the largest number of votes in the municipal election and shall serve a term of two years. In the event of a tie or the councilman receiving the largest number of votes declines to serve as Mayor, the Mayor shall be elected by majority vote of the council from its membership.

"ARTICLE IV.

"RESTRICTIONS ON REGULATIONS.

"Sec. 4.1. Extraterritorial Jurisdiction. The Town may not exercise any extraterritorial jurisdiction or extraterritorial powers under Article 19 of Chapter 160A of the General Statutes.

"Sec. 4.2. Regulations. The incorporated area owned or operated by Beech Mountain Resort, Inc., on the date of ratification of this act, or its successors in title, shall not be subject to town regulations or ordinances which restrict its operation as a ski resort, theme park, or recreational area (or to activities related to such use), this exclusion to include zoning, hours or days of operation, building permits and inspections, and ordinances which regulate noise or lighting associated with its operation as a ski resort, theme park, or similar recreational area, or off-street parking, provided, however, that sufficient off-street parking must be provided for any new activities or new slopes opened after ratification of this act.

"ARTICLE V.

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"ELECTIONS.

"Sec. 5.1. Conduct of Town Elections. The Town Council shall be elected according to the nonpartisan plurality method and the results determined as provided in G.S. 163-292.

"Sec. 5.2. Administration of Elections. Elections shall be administered as provided in G.S. 163-285.

"ARTICLE VI.

"ADMINISTRATION.

"Sec. 6.1. Manager Form of Government. The Town of Beech Mountain shall operate under the council-manager form of government provided by Part 2 of Article 7 of Chapter 160A of the General Statutes.

"ARTICLE VII.

"TAXATION FOR FISCAL YEAR 1980-81.

"Sec. 7.1. Budget for Fiscal Year 1980-81. The newly incorporated Town of Beech Mountain is authorized to adopt a budget and levy property taxes for the portion of the 1980-81 fiscal year during which it is incorporated. In adopting the budget and levying taxes late in the fiscal year 1980-81, the town's governing body need not follow the schedule of action set forth in the Local Government Budget and Fiscal Control Act but shall observe the sequence of actions in the spirit of the act insofar as is practical.

"Sec. 7.2. Property Taxes for Fiscal Year 1980-81. Property taxes levied by the Town of Beech Mountain as authorized in Section 7.1 of this Charter shall be due and collected as provided in G.S. 160A-58.10 in the case of taxes levied for part of the year following annexation.

"ARTICLE VIII.

"INTERIM TOWN COUNCIL.

"Sec. 8.1. For the period from May 1, 1981, until the date of the organizational meeting after the 1981 municipal election provided by G.S. 160A-68, the following persons shall serve as the interim council:

Vernon Holland, Mayor
Edwin Lotz, Councilman
Fred Piohl, Councilman
Reuben Mooradian, Councilman
Gordon Ripley, Councilman."

Sec. 2. In accordance with the provisions of G.S. 130-126.1, the Town Council of the Town of Beech Mountain shall become ex officio the governing board of the Beech Mountain Sanitary District, if the Beech Mountain Sanitary District Board of Commissioners adopts a resolution in accordance with that section.

Sec. 3. Section 1 of this act shall become effective May 1, 1981. Section 2 of this act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of April, 1981.
H. B. 281  CHAPTER 247

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-34.12 is amended by deleting lines 50 and 51 which read as follows:
   "Chapter 113A, Article 4, entitled 'Sedimentation Pollution Control Act of 1973' ."

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 24th day of April, 1981.

H. B. 282  CHAPTER 248
AN ACT TO LIMIT THE TERM OF OFFICE OF MEMBERS OF THE SEDIMENTATION CONTROL COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-299(b) is amended on lines 4 and 10 by deleting the word "four" and substituting therefor the word "three".

Sec. 2. G.S. 143B-299(b) is further amended on line 10 by inserting after the period following the word "years" and before the word "Any" the following language:
   "All commission members serving on June 30, 1981, shall be eligible to complete their respective terms. Except for the person filling position number five, no member appointed to the commission on or after July 1, 1981, shall serve more than two complete consecutive three-year terms ."

Sec. 3. G.S. 143-34.12 is amended by deleting lines 52 and 53 which read as follows:
   "Chapter 143B, Article 7, Part 8, entitled 'Sedimentation Control Commission'."

Sec. 4. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 24th day of April, 1981.

H. B. 445  CHAPTER 249
AN ACT TO REPEAL THE PROHIBITION ON TAKING BEAVER IN MOORE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 692 of the 1955 Session Laws is amended by deleting the language "Moore, ."

Sec. 2. G.S. 113-133.1(e) is amended by deleting the language, "Moore: Session Laws 1955, Chapter 692 ."

Sec. 3. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 24th day of April, 1981.

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CHAPTER 250  Session Laws—1981

H. B. 470  CHAPTER 250

AN ACT TO REPEAL THE PROHIBITION ON BEAR HUNTING IN CAMDEN COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 582 of the 1979 Session Laws is amended by deleting the language “Camden,”.

Sec. 2. G.S. 113-133.1(e) is amended by rewriting the entry for Camden County to read:

“Camden: Session Laws 1955, Chapter 362 (to the extent it applies to inland fishing waters); Session Laws 1967, Chapter 441.”

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of April, 1981.

H. B. 494  CHAPTER 251

AN ACT TO AMEND GENERAL STATUTES CHAPTERS 139 AND 153A CONCERNING THE AUTHORITY OF COUNTIES TO CONDUCT WATERSHED IMPROVEMENT PROGRAMS.

The General Assembly of North Carolina enacts:

Section 1. General Statutes Chapter 139 is hereby amended by adding thereto a new section to be numbered G.S. 139-41.1 and to read as follows:

“§ 139-41.1. Powers of counties that are not authorized to levy watershed improvement taxes.—A county may exercise any of the powers set out in this Article without having been authorized to levy a watershed improvement tax pursuant to the procedures of G.S. 139-39 and G.S. 139-40 or otherwise.”

Sec. 2. General Statutes Chapter 153A is hereby amended by adding thereto a new section to be numbered G.S. 153A-440.1 and to read as follows:

“§ 153A-440.1. Watershed improvement programs.—A county may establish and maintain a county watershed improvement program pursuant to G.S. 139-41 or G.S. 139-41.1 and for these purposes may appropriate funds not otherwise limited as to use by law. A county watershed improvement program or project may also be financed pursuant to G.S. 153A-301 or by any other financing method available to counties for this purpose.”

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of April, 1981.
H. B. 517   
CHAPTER 252

AN ACT TO PERMIT WILDLIFE PROTECTORS TO ISSUE WARNING TICKETS FOR GAME, FISH, AND BOAT LAW VIOLATIONS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 113 of the General Statutes is amended by adding a new G.S. 113-140 to read:

“§ 113-140. Warning tickets.—(a) In enforcing the laws and regulations within their subject matter jurisdiction, wildlife protectors may, in accordance with the criteria of this section, issue warning tickets to offenders instead of initiating criminal prosecutions.

(b) To secure uniformity of enforcement, the Executive Director may administratively promulgate standards consistent with subsection (c) providing that warning tickets may or may not be issued with respect to particular offenses, classes of offenses, or ways of committing offenses.

(c) A protector may issue a warning ticket only if all of the following conditions are met:

(1) The protector is convinced that the offense was not intentional.

(2) The offense is not of a kind or committed in a manner as to which warning tickets have been prohibited by the Executive Director.

(3) The conduct of the offender was not calculated to result in any significant destruction of wildlife or fisheries resources.

(4) The conduct of the offender did not constitute a hazard to the public.

A warning ticket may not be issued if the offender has previously been charged with or issued a warning ticket for a similar offense.

(d) If any law enforcement officer with jurisdiction over the offense or if any employee of the Wildlife Resources Commission learns that under the criteria of this section a warning ticket was inappropriately issued to an offender, he must take action to secure initiation of prosecution for the appropriate charge or charges unless barred by the statute of limitations or unless prosecution is not otherwise feasible because of unavailability of evidence or necessary witnesses.

(e) Before any warning tickets are issued, the Executive Director must institute a procedure to ensure an accurate accounting for and recording of all warning tickets issued. This procedure may include use of prenumbered tickets and immediate notation of issuance of the warning ticket on each appropriate license or permit issued by the Wildlife Resources Commission held by the offender. The Executive Director may also provide for issuance of new, replacement, or renewal licenses and permits bearing the notation. The licenses covered by this subsection include certificates of number for motorboats.

(f) This section does not entitle any person who has committed an offense with the right to be issued a warning ticket. That issuance of a warning ticket may be appropriate under the criteria of this section does not restrict in any manner the powers of a wildlife protector or any other law enforcement officer under G.S. 113-136, 113-137, and other provisions of law in dealing with hunters, fishermen, operators of vessels, and other offenders and suspected offenders.

(g) Issuance of a warning ticket does not constitute evidence of the commission of an offense, but may be used to prevent issuance of a subsequent warning ticket to the same person for a similar offense.”

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CHAPTER 252  Session Laws—1981

Sec. 2. This act shall become effective July 1, 1981.
In the General Assembly read three times and ratified, this the 24th day of April, 1981.

H. B. 559   CHAPTER 253
AN ACT TO REQUIRE APARTMENT OWNERS IN MECKLENBURG, FORSYTH AND CATAWBA COUNTIES TO GIVE TENANT LISTS TO THE OFFICE OF THE TAX SUPERVISOR ON AN ANNUAL BASIS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-316.9(c), as enacted by Chapter 1110, Session Laws of 1979 (Second Session 1980) is amended by adding immediately after the word "Pasquotank", the words "Mecklenburg, Forsyth and Catawba".

Sec. 2. This act shall become effective January 1, 1982.
In the General Assembly read three times and ratified, this the 24th day of April, 1981.

H. B. 595   CHAPTER 254
AN ACT PERMITTING HUNTING WITH DOGS IN PART OF CHOWAN COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 1163 of the 1979 Session Laws is amended to read:
"Sec. 3. It is unlawful to hunt deer by any means other than still hunting in that part of Chowan County south of U.S. Highway 17 and U.S. Highway 17 Business and east of a line drawn from the intersection of the western city limits of the Town of Edenton and U.S. Highway 17 Business and extending due south to the Albemarle Sound."

Sec. 2. This act shall become effective July 1, 1981.
In the General Assembly read three times and ratified, this the 24th day of April, 1981.

H. B. 597   CHAPTER 255
AN ACT TO AUTHORIZE RALEIGH POLICE OFFICERS TO PURCHASE REVOLVERS CARRIED BY THEM.

The General Assembly of North Carolina enacts:

Section 1. Upon a change by the Raleigh Police Department in the type of revolver issued to its officers, each active police officer of the Raleigh Police Department may purchase the prior revolver assigned to him or her, at a price equal to the average yield to the city from the sale of similar revolvers during the preceding year.

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 24th day of April, 1981.
H. B. 605                      CHAPTER 256
AN ACT TO AUTHORIZE THE COUNTY OF WAKE TO REGULATE THE
PARKING OF MOTOR VEHICLES IN PROPERLY DESIGNATED FIRE
LANES ON EITHER PUBLIC OR PRIVATE PROPERTY.
The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-139 is amended as follows:
(1) By designating its present wording as subsection (a).
(2) By adding a new subsection (b) as follows:
"The governing body of a county may, by ordinance, regulate the stopping,
standing or parking of a vehicle in a properly designated fire lane whether on
public or private property. Any such ordinance may provide for removal of
vehicles parked in violation of the ordinance and the owner of a vehicle parked
in violation of an ordinance adopted pursuant to this subsection shall be
deemed to have appointed any appropriate law enforcement officer as his agent
for the purpose of arranging for the transportation and safe storage of such
vehicle."

Sec. 2. This act shall apply only to the county of Wake.
Sec. 3. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 24th day of
April, 1981.

H. B. 617                      CHAPTER 257
AN ACT TO AMEND THE CHARTER OF THE CITY OF WILMINGTON
CLARIFYING THE METHOD OF DESCRIBING CORPORATE
BOUNDARIES.
The General Assembly of North Carolina enacts:

Section 1. Chapter 495, Session Laws of 1977, being the Charter of the
City of Wilmington, is amended by adding the following to Section 2.1:

"Whenever the corporate boundaries of the City are altered in accordance
with general or special law, such changes in the corporate boundaries shall be
indicated by appropriate additions to the official map or description of the
boundaries of the City. Such map, written description or combination thereof
shall be maintained in the office of the City Clerk as required by G.S. 160A-22."

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 24th day of
April, 1981.

H. B. 620                      CHAPTER 258
AN ACT TO AMEND THE CITY OF WILMINGTON CHARTER
CONCERNING ZONING.
The General Assembly of North Carolina enacts:

Section 1. Chapter 495, Session Laws of 1977, being the Charter of the
City of Wilmington, is amended by adding the following new section to Article
XXIII:
"Sec. 23.6. Zoning. The City Council of the City of Wilmington, in addition to
the authority conferred upon them by any general or local law, is hereby
empowered by ordinance to regulate in any portion or portions of the City of
CHAPTER 258  
Session Laws—1981

Wilmington's zoning jurisdiction the uses of buildings and structures for trade, industry, residence, recreation, public activities or other purposes, and the uses of land for trade, industry, residence, recreation, agriculture, water supply conservation, soil conservation, forestry or other purposes.

For any or all these purposes, the City may divide its territorial jurisdiction into districts of any number, shape, and area that may be deemed best suited to carry out the purposes of this act; and within those districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structure or land. All regulations shall be uniform for each class or kind of building throughout each district, but the regulations in one district may differ from those in other districts; provided, however, that the City may provide for the creation of special use districts in addition to general use districts.

It is the purpose and intent of this act to permit the City to create general use districts in which a variety of uses are permitted, and to also create special use districts in which uses are permitted only upon the issuance by the City Council of a special use permit prescribing the conditions under which such use will be permitted.

A person petitioning for rezoning of a tract of land, where special use districts are authorized by ordinance, may elect to request general use district zoning for said tract, or he may elect to request special use district zoning for said tract.

If the petitioner elects to petition for general use district zoning, the City Council may not consider the intended use in determining whether to approve or disapprove the petition, but shall consider the full range of uses permitted within the requested general use district. If the petition is approved, the rezoned property may be used for any of the uses permitted in the applicable general use district.

If the petitioner elects to petition for special use district zoning, the petition must specify the actual use intended for the property specified in the petition, and the intended use must be one permitted in the corresponding general use district. If the petition is for special use district zoning, the City Council is to approve or disapprove the petition on the basis of the specific use requested. If the petition is approved, the City Council shall issue a special use permit authorizing the requested use with such reasonable conditions as the City Council determines to be desirable in promoting public health, safety and general welfare. Every decision of the City Council shall be subject to review by the Superior Court by proceedings in the nature of certiorari.

The conditions contained in a special use permit issued by the City Council may include: location of the proposed use on the property; the number of dwelling units; the location and extent of support facilities such as parking lots, driveways, and access streets; location and extent of buffer areas and other special purpose areas; the timing of development; and such other matters as the City Council may find appropriate or the petitioner may propose.

It is the further intent of this section to permit the creation of districts for specific uses and the imposition of reasonable conditions in order to secure the public health, safety and welfare, and insure that substantial justice be done."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of April, 1981.
H. B. 711  

CHAPTER 259

AN ACT TO PERMIT THE CITY OF GREENVILLE TO LEASE TO THE PITT-GREENVILLE CHAMBER OF COMMERCE, INC., CERTAIN REAL PROPERTY LOCATED ON THE CORNER OF GREENE AND THIRD STREETS IN GREENVILLE.

The General Assembly of North Carolina enacts:

Section 1. The City of Greenville owns real property hereinafter described and on which is located a home in need of repair but worthy of rehabilitation and renovation for historic preservation and use, said real property being described as follows:

Lying and being situate in Greenville, Pitt County, North Carolina, and more particularly described as follows: That certain tract or parcel of land known as the Winstead-Fleming House located at the corner of Greene and Third Streets and more specifically described as being that tract of land as follows: BEGINNING at the point of intersection of the inside edge of the sidewalk on the west side of Greene Street with the inside edge of the sidewalk on the south side of West Third Street, and running thence along and with the inside edge of the concrete sidewalk on the west side of Greene Street, South 18 deg. 35 min. West 132.46 feet, cornering; thence running North 71 deg. 33 min. West 125.59 feet to a point, cornering; running thence North 17 deg. 52 min. East 130.84 feet to a point in the inside edge of the concrete sidewalk on the south side of West Third Street; thence running South 72 deg. 16 min. East along and with the inside edge of the concrete sidewalk on the south side of West Third Street, 127.33 feet to the point of the beginning.

Sec. 2. The City of Greenville is authorized to enter into a lease with Pitt-Greenville Chamber of Commerce, Inc., concerning the property described in Section 1 of this act without compliance with Article 12 of Chapter 160A of the General Statutes of North Carolina, and which lease may contain such terms and such provisions as shall be approved by the City of Greenville and which may include a term in excess of 10 years, provided the City Council of the City of Greenville determines that: (i) the Pitt-Greenville Chamber of Commerce, Inc., shall make sufficient renovations for restoration and maintenance of the property and (ii) that such lease is in the best interest of the City of Greenville. The property shall be leased pursuant to a resolution of the Council authorizing the execution of the lease adopted at a regular Council meeting upon 10 days' public notice. Notice shall be given by publication describing the property to be leased or rented, stating the annual rental or lease payments, and announcing the Council's intent to authorize the lease or rental at its next regular meeting.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of April, 1981.
AN ACT TO REMOVE THE RESTRICTION ON POLITICAL ACTIVITY BY DEPARTMENT OF CORRECTION EMPLOYEES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 148-52.1 is amended by deleting the words “or employee of the Department of Correction” from the first sentence and by deleting the words “or employee of the Department” and the words “or employment” from the second sentence.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of April, 1981.

AN ACT TO DISBAND THE ASHEVILLE FIREMEN'S PENSION AND DISABILITY FUND.

The General Assembly of North Carolina enacts:

Section 1. Sections 15 through 27 of Chapter 188, Session Laws of 1977, are repealed.

Sec. 2. Section 28 of Chapter 188, Session Laws of 1977 is amended as follows:

(1) Delete the words “Chapters 242 and 243, Session Laws of 1939” and insert in lieu thereof the words “Chapter 242, Public-Local Laws of 1939”;

(2) Delete the words “Chapters 310 and 311, Session Laws of 1945”, and insert in lieu thereof the words “Chapter 311, Session Laws of 1945”;

(3) Delete the words “Chapters 320 and 322, Session Laws of 1955”, and insert in lieu thereof the words “Chapter 322, Session Laws of 1955”;

(4) Delete the words “and the Asheville Fire Department”; and

(5) Whenever the word “departments” appears, insert in lieu thereof the word “department”.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of April, 1981.

AN ACT TO MAKE ELECTIONS FOR TOWN COMMISSIONERS OF THE TOWN OF CLEVELAND CONSISTENT WITH OTHER MUNICIPAL ELECTIONS.

The General Assembly of North Carolina enacts:

Section 1. Section 11 of Chapter 160, Private Laws of 1927, as amended by Section 2 of Chapter 1171, Session Laws of 1979 (Second Session 1980) is rewritten to read:

"Sec. 11. At the municipal election conducted in 1981, there shall be elected by the qualified voters two commissioners to serve two-year terms. In 1983 and quadrennially thereafter, two commissioners shall be elected for four-year terms. In addition, in a separate section of the ballot at the municipal election in 1981, there shall be elected by the qualified voters three commissioners to serve four-year terms. In 1985 and quadrennially thereafter, three
commissioners shall be elected for four-year terms. In 1981 and biennially thereafter, a mayor shall be elected for a two-year term. The mayor and town commissioners, after having been certified as elected, shall take office as provided in G.S. 160A-68. The election ordered herein and all future elections shall be conducted at the time prescribed in G.S. 163-279 and the type of election shall be nonpartisan plurality as specified in G.S. 163-279(1) and G.S. 163-290(3).

Sec. 2. The intent of this act is to schedule all future elections in the Town of Cleveland to be held in odd-numbered years, commencing in 1981.

Sec. 3. The terms of office of the current mayor and members of the board of commissioners of the Town of Cleveland shall expire at the time of the organizational meeting following the 1981 municipal election.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of April, 1981.

S. B. 343

CHAPTER 263
AN ACT TO AMEND THE CITY OF WILMINGTON CHARTER REGARDING PREPARATION OF INSTRUMENTS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 495, Session Laws of 1977, being the Charter of the City of Wilmington, is amended by rewriting Section 10.7 to read:

"Sec. 10.7. Preparation of Instruments. The City Attorney shall prepare or approve all forms of contracts, bonds and other instruments to which the City is a party or in which it has interest and shall endorse on each his approval as to form."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of April, 1981.

S. B. 345

CHAPTER 264
AN ACT TO AMEND THE CHARTER OF THE CITY OF WILMINGTON TO CLARIFY THE RIGHT OF THE MAYOR TO VOTE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 495, Session Laws of 1977, being the Charter of the City of Wilmington, is amended by adding a new subsection to Section 3.11 of the Charter to read:

"(d) The mayor shall have the right to vote as a council member on all matters before the council, but shall have no right to break a tie vote in which he participated. The mayor shall have no power to veto."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of April, 1981.
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S. B. 347  CHAPTER 265
AN ACT TO AMEND THE CHARTER OF THE CITY OF WILMINGTON DELETING REFERENCE TO THE ORGANIZATIONAL MEETING OF CITY COUNCIL TO CONFORM TO CHAPTER 1247 OF THE 1979 SESSION LAWS.
The General Assembly of North Carolina enacts:

Section 1. Chapter 495, Session Laws of 1977, being the Charter of the City of Wilmington, is amended by repealing the first sentence of Section 3.6 of the Charter which reads as follows:

"The Council shall meet and organize at the first regular meeting in December in each election year of the mayor and councilmen of the City of Wilmington."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of April, 1981.

S. B. 361  CHAPTER 266
AN ACT TO MERGE THE TOWNS OF LEWISTON AND WOODVILLE IN BERTIE COUNTY INTO A SINGLE MUNICIPALITY TO BE KNOWN AS THE TOWN OF LEWISTON WOODVILLE.
The General Assembly of North Carolina enacts:

Section 1. The following provisions of law shall constitute the Charter of the Town of Lewiston Woodville:

"The Charter of the Town of Lewiston Woodville.

"ARTICLE I.

"Incorporation and Corporate Powers.

"Section 1.1. Incorporation and general powers. The inhabitants of the Town of Lewiston Woodville are a body corporate and politic under the name of the Town of Lewiston Woodville. Under that name they have all powers, duties, rights, privileges and immunities conferred and imposed upon municipal corporations by the general law of North Carolina.

"ARTICLE II.

"Corporate Boundaries.

"Sec. 2.1. The corporate boundaries of the Town of Lewiston Woodville, until changed in accordance with law, are as follows: All of the land which was within the corporate limits of either the Town of Lewiston or the Town of Woodville on June 30, 1981.

"ARTICLE III.

"Governing Body.

"Sec. 3.1. Elected officers. The elected officers of the town shall, beginning with the 1981 municipal election, consist of a Town Council composed of five members and a Mayor elected by the voters of the town. The terms of office of the members of the Town Council and of the Mayor shall be two years.

"Sec. 3.2. Manner of election. Elections shall be held in accordance with Subchapter IX of Chapter 163 of the General Statutes, and the results determined by the nonpartisan plurality method as provided in G.S. 163-292.

"Sec. 3.3. Election of Mayor and Council. The Town of Lewiston Woodville shall be divided into two districts. District 1 shall consist of the area within the
corporate limits of the Town of Lewiston on June 30, 1981. District 2 shall consist of the area within the corporate limits of the Town of Woodville on June 30, 1981. Each district shall have two council members. Candidates shall reside in and represent their district, but all candidates shall be elected by all the qualified voters of the town. In addition, one council member shall be elected at large by all the qualified voters of the town. The Mayor shall be elected by all the qualified voters of the town.

“ARTICLE IV.

“Administration.

“Sec. 4.1. Form of government. The Town of Lewiston Woodville shall operate under the mayor-council form of government as provided in Part 3 of Article 7 of Chapter 160A of the General Statutes.”

Sec. 2. From June 30, 1981, until the organizational meeting following the 1981 municipal election, the Town of Lewiston Woodville shall be governed by a Town Council composed of four members, and a Mayor. Two council members shall be appointed by the governing board of the Town of Lewiston on or before June 30, 1981. Two council members shall be appointed by the governing board of the Town of Woodville on or before June 30, 1981. The Mayor shall be chosen jointly by the governing boards of the two towns on or before June 30, 1981, with each board having one vote.

Sec. 3. (a) All property, real and personal and mixed, including accounts receivable, belonging to the Town of Lewiston shall vest in, belong to, and be the property of, the new municipality created by this act. The governing body of the Town of Lewiston is hereby authorized and directed to take such actions and to execute such documents as will carry into effect the provisions and the intent of this section.

(b) All judgments, liens, rights of lien, and causes of action of any nature in favor of the Town of Lewiston shall vest in and remain and inure to the benefit of the new municipality created by this act.

(c) All taxes, assessments, water or sewer charges, and any other charges or fees, owing to the Town of Lewiston shall be owed to and collected by the new municipality created by this act.

(d) All actions, suits, and proceedings pending against, or having been instituted by, the Town of Lewiston shall not be abated by this act or by the consolidation herein provided for, but all such actions, suits, and proceedings shall be continued and completed in the same manner as if consolidation had not occurred, and the new municipality created by this act shall be a party to all such actions, suits, and proceedings in the place and stead of the Town of Lewiston and shall pay or cause to be paid any judgments rendered against the Town of Lewiston in any such actions, suits, or proceedings. No new process need be served in any such action, suit, or proceeding.

(e) All obligations of the Town of Lewiston, including outstanding indebtedness, shall be assumed by the new municipality, and all such obligations and outstanding indebtedness are hereby constituted obligations and indebtedness of the new municipality, and the full faith and credit of the new municipality shall be deemed to be pledged for the punctual payment of the principal of and interest on all general obligation bonds and bond anticipation notes of the Town of Lewiston, and all the taxable property within the new municipality, as well as that formerly located within the Town of Lewiston, shall be and remain subject to taxation for such payment.
(f) All ordinances of the Town of Lewiston shall continue in full force and effect within the area to which they apply on June 30, 1981, as ordinances of the new municipality until repealed or amended by the governing body of the new municipality.

(g) All franchises heretofore granted by the Town of Lewiston, which are still in force shall continue as valid franchises of the new municipality for the purposes granted within the area formerly comprising the Town of Lewiston, but shall not hereby be constituted valid franchises for any other portion of the corporate limits of the new municipality.

(h) The Town of Lewiston is hereby abolished.

Sec. 4. (a) All property, real and personal and mixed, including accounts receivable, belonging to the Town of Woodville shall vest in, belong to, and be the property of, the new municipality created by this act. The governing body of the Town of Woodville is hereby authorized and directed to take such actions and to execute such documents as will carry into effect the provisions and the intent of this section.

(b) All judgments, liens, rights of liens, and causes of action of any nature in favor of the Town of Woodville shall vest in and remain and inure to the benefit of the new municipality created by this act.

(c) All taxes, assessments, water or sewer charges, and any other charges or fees, owing to the Town of Woodville shall be owed to and collected by the new municipality created by this act.

(d) All actions, suits, and proceedings pending against, or having been instituted by, the Town of Woodville shall not be abated by this act or by the consolidation herein provided for, but all such actions, suits, and proceedings shall be continued and completed in the same manner as if consolidation had not occurred, and the new municipality created by this act shall be a party to all such actions, suits, and proceedings in the place and stead of the Town of Woodville and shall pay or cause to be paid any judgments rendered against the Town of Woodville in any such actions, suits or proceedings. No new process need be served in any such action, suit, or proceeding.

(e) All obligations of the Town of Woodville including outstanding indebtedness, shall be assumed by the new municipality, and all such obligations and outstanding indebtedness are hereby constituted obligations and indebtedness of the new municipality, and the full faith and credit of the new municipality shall be deemed to be pledged for the punctual payment of the principal of and interest on all general obligation bonds and bond anticipation notes of the Town of Woodville, and all the taxable property within the new municipality, as well as that formerly located within the Town of Woodville, shall be and remain subject to taxation for such payment.

(f) All ordinances of the Town of Woodville shall continue in full force and effect within the area to which they apply on June 30, 1981, as ordinances of the new municipality until repealed or amended by the governing body of the new municipality.

(g) All franchises heretofore granted by the Town of Woodville, which are still in force shall continue as valid franchises of the new municipality for the purposes granted within the area formerly comprising the Town of Woodville, but shall not hereby be constituted valid franchises for any other portion of the corporate limits of the new municipality.

(h) The Town of Woodville is hereby abolished.
Sec. 5. The following acts, having served the purposes for which they were enacted, or having been consolidated into this act are hereby repealed:

Chapter 91, Private Laws of 1881
Chapter 27, Private Laws of 1911
Chapter 57, Private Laws of 1927
Chapter 63, Private Laws of 1927
Chapter 111, Private Laws of 1935
Chapter 568, Session Laws of 1947
Chapter 461, Session Laws of 1957
Chapter 574, Session Laws of 1967.

Sec. 6. This act shall not be construed so as to repeal, modify, or in any manner affect any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind of the Town of Lewiston or of the Town of Woodville.

Sec. 7. Sections 1, 5, and 6 of this act shall become effective June 30, 1981. Section 2 is effective upon ratification. Sections 3 and 4 shall become effective June 30, 1981, but the Town of Lewiston and the Town of Woodville may take any action required by Section 3(a) or Section 4(a) beginning upon ratification. The Town Council of Lewiston Woodville may adopt a budget ordinance for the 1981-82 fiscal year, following their qualification for office, without having to comply with the budget preparation and adoption timetable set out in the Local Government Budget and Fiscal Control Act.

In the General Assembly read three times and ratified, this the 27th day of April, 1981.

H. B. 252  CHAPTER 267
AN ACT TO ALLOW TELEPHONE SERVICE OF SUBPOENAS FOR THE ATTENDANCE OF WITNESSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 8-59 is amended by adding after the period the following:

"Provided that in criminal cases any law enforcement officer authorized to make arrests and employed by a local law enforcement agency may effect service of a subpoena for the attendance of witnesses by telephone communication with the person named. However, in the case of a witness served by telephone communication pursuant to this section, neither an order to show cause nor an order for arrest shall be issued until such person has been served personally with the written subpoena."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of April, 1981.
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H. B. 271  CHAPTER 268

AN ACT TO AUTHORIZE THE SECRETARY OF ADMINISTRATION TO ADOPT RULES AND REGULATIONS FOR THE PURCHASE OF PASSENGER AUTOMOBILES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-249 is repealed.

Sec. 2. G.S. 143-60 is amended by inserting a new (6) which shall read as follows:

“(6) Prescribing the manner in which passenger vehicles shall be purchased.”

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of April, 1981.

H. B. 541  CHAPTER 269

AN ACT TO ALLOW BERTIE AND MARTIN COUNTIES TO OPERATE A REGIONAL JAIL.

The General Assembly of North Carolina enacts:

Section 1. When two or more units of local government have entered into an agreement to construct, finance and operate a regional or district confinement facility or jail under G.S. 153A-219, the respective governing bodies of the participating units of local government shall levy sufficient taxes, or issue general obligation bonds or notes, to carry out the terms of the agreement.

The jailer or custodial personnel of the regional or district confinement facility shall have the authority of a law enforcement officer for the purpose of receiving and keeping custody of prisoners received from the participating units of local government. Law enforcement officers of the participating units of government may transport prisoners to and from the local confinement facility and each unit shall be responsible for the transportation of its prisoners.

The governing bodies shall create a Regional Jail Commission composed of six members. The governing body of each participating unit shall appoint three members who shall be qualified voters of that unit. The term of office shall be two years. One member from each participating unit shall be a member of the governing body of that unit who shall be deemed to serve in an ex officio capacity to his public office and whose term of office on the commission shall terminate with his term of office on the governing body or upon expiration of the term of appointment, whichever event first occurs. Vacancies occurring for any cause shall be filled by appointment of the governing body which made the original appointment in which the vacancy occurs.

The Regional Jail Commission shall be the administrative authority of the confinement facility, and shall adopt rules and regulations for the operation of the facility. The commission shall have the following powers:

(1) within the limits of funds made available to it, and when authorized by the governing bodies of the local units, to enter into contracts in the name of the respective units for the construction and operation of the confinement facilities;

(2) to employ personnel necessary to carry out its work;

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(3) to accept, receive and disburse in furtherance of its functions any funds, grants and services made available by the State or federal governments and their agencies, any municipality or county, and by private sources. All fiscal procedures shall be in accordance with the laws applicable to the participating units, and the commission shall prepare each year a report of its activities including a financial statement, and distribute the report to each participating unit.

The commission shall organize by electing a chairman and vice-chairman from its six members. The commission shall designate the finance officer of one of the participating units who shall serve as secretary-treasurer of the commission, who shall attend the meetings of the commission, but who shall not have a vote in the acts and decisions of the commission; and this designation shall rotate among the finance officers of all the participating units from time to time as the commission shall determine. Each officer of the commission shall be elected or designated for a term of two years, or until expiration of his term of office on the commission, whichever event first occurs. Vacancies in any office of the commission shall be filled by the commission. The commission shall hold one regular meeting each month. Special meetings shall be held at the request of the chairman or any two members and with notice to all other members and to the secretary-treasurer. The administration of the budget, keeping of books and records, management of all moneys belonging to the Regional Jail Commission, the writing of checks, the payment of all bills, the payment of salaries to all employees, and the withholding and remitting and reporting of social security, U. S. and N. C. income taxes, retirement, and the payment of worker's compensation insurance shall be done and administered for the commission by the finance officer of one of the participating units who shall have been designated by the commission as its secretary-treasurer. The participating unit whose finance officer shall serve as secretary-treasurer of the Regional Jail Commission will not charge the other participating units for those services. The budget and financial control and revenues, debts and expenditures of the commission shall be in accordance with the Local Government Budget and Fiscal Control Act and within the management controls of the participating unit which shall administer the budget. The finance officer of the participating unit by which the budget shall be administered is authorized to make and execute line item transfers in amounts not in excess of two hundred fifty dollars ($250.00) without approval of the Regional Jail Commission. The books, records, accounts and transactions of the Regional Jail Commission shall be audited annually by the certified public accountants or public accountants approved by the North Carolina Local Government Commission regularly employed by the participating unit whose finance officer shall serve as secretary-treasurer of the commission. The Regional Jail Commission shall pay the costs of that audit and the same shall be included in the annual budget for the commission.

The commission shall perform the duties and functions relating to the confinement facility which the governing bodies of the participating units by joint resolution direct. Members of the commission shall receive the compensation set by joint resolution of the governing bodies of the participating units. The amount of financial contribution of each participating unit to the jail commission shall be determined by a percentage proportion that the population
of each participating unit bears to the total population of all participating units as indicated by the latest federal census of population.

Sec. 2. This act applies only to Bertie and Martin Counties.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of April, 1981.

H. B. 648  CHAPTER 270
AN ACT TO REQUIRE CONSENT OF THE COLUMBUS COUNTY BOARD OF COMMISSIONERS BEFORE LAND IN THAT COUNTY MAY BE CONDEMNED OR ACQUIRED BY A UNIT OF LOCAL GOVERNMENT OUTSIDE THE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of G.S. 153A-159, Article 11 of Chapter 160A of the General Statutes, G.S. 130-130, Chapter 40 of the General Statutes, or any other general law or local act conferring the power of eminent domain, before final judgment may be entered in any action of condemnation initiated (or in the case of Article 11 of Chapter 160A, before a final condemnation resolution is adopted) by a county, city or town, special district, or other unit of local government which is located wholly or primarily outside Columbus County, whereby the condemnor seeks to acquire property located in Columbus County, the condemnor shall furnish proof that the Columbus County Board of Commissioners has consented to the taking.

Sec. 2. Notwithstanding the provisions of G.S. 153A-158, Chapter 160A of the General Statutes, Article 12 of Chapter 130 of the General Statutes, or any other general law or local act conferring the power to acquire real property, before any county, city or town, special district, or other unit of local government which is located wholly or primarily outside Columbus County acquires any property located in Columbus County by exchange, purchase or lease, it must have the approval of the Columbus County Board of Commissioners.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of April, 1981.

H. B. 674  CHAPTER 271
AN ACT TO GRANT THE TOWN OF BETHEL ADDITIONAL POWERS OF ASSESSMENT AS TO STREETS AND SIDEWALKS.

The General Assembly of North Carolina enacts:

Section 1. In addition to any authority which is now or may hereafter be granted by general law to the Town of Bethel for making street improvements, the city council is hereby authorized to make street improvements and to assess the costs thereof against abutting property owners in accordance with the provisions of this act.

Sec. 2. The town commissioners may order street improvements and assess the costs thereof, exclusive of the costs incurred at street intersections, against the abutting property owners, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina
General Statutes, without the necessity of a petition, upon findings of fact by
the council that:

(1) such street or part thereof is unsafe for vehicular traffic and it is in the
public interest to make such improvement, or

(2) it is in the public interest to connect two streets or portions of a street
already improved, or

(3) it is in the public interest to widen a street, or part thereof, that is
already improved. However, assessments for widening any street, or portion of
street, without petition shall be limited to the cost of widening and otherwise
improving such street in accordance with the street classification and
improvement standard established by the town’s thoroughfare or major street
plan for the particular street, or part thereof to be widened and improved, or

(4) such street, or part thereof, is in need of repair or pavement and it is in
the public interest to make such improvements.

Sec. 3. For the purpose of this act, the term “street improvement” shall
include grading, regrading, surfacing, resurfacing, widening, paving, repaving,
the acquisition of right-of-way, and the construction or reconstruction of curbs,
gutters, and street drainage systems.

Sec. 4. In addition to any authority which is now or may hereafter be
granted by general law to the Town of Bethel for making sidewalk
improvements, the town commissioners are hereby authorized, without the
necessity of a petition, to make or to order to be made sidewalk improvements
or repairs according to standards and specifications of the city, and to assess the
total cost thereof against abutting property owners, according to one or more of
the assessment bases set forth in Article 10 of Chapter 160A of the North
Carolina General Statutes; provided, however, that regardless of the assessment
basis or bases employed, the council may order the costs of sidewalk
improvements made only on one side of a street to be assessed against property
owners abutting both sides of such street.

Sec. 5. In ordering street and sidewalk improvements without a petition
and assessing the costs thereof under authority of this act, the town
commissioners shall comply with the procedure provided by Article 10, Chapter
160A of the General Statutes, except those provisions relating to the petition of
property owners and the sufficiency thereof.

Sec. 6. The effect of the act of levying assessments under authority of
this Article shall for all purposes be the same as if the assessments were levied
under authority of Article 10 of Chapter 160A of the General Statutes.

Sec. 7. This act shall be in addition to and not in derogation of any other
powers already held by general laws or in the town Charter.

Sec. 8. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of
April, 1981.
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H. B. 706  CHAPTER 272

AN ACT TO PROVIDE A NEW CHARTER FOR THE CITY OF GREENVILLE, NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Greenville is hereby revised and consolidated to read:

"ARTICLE I.

"Incorporation, Powers, Corporate Limits.

"Section 1.1. Incorporation. The inhabitants of the City of Greenville, North Carolina, are a body corporate and politic under the name of the 'City of Greenville,' hereinafter at times referred to as the 'City'.

"Sec. 1.2. Powers. The City of Greenville has and may exercise all of the powers, duties, rights, privileges and immunities which are now or hereafter may be conferred or imposed, either expressly or by implication, on municipal corporations by this Charter, the general law of North Carolina, the State Constitution, or local law.

Additionally the City has the power to issue and sell bonds on the security of any such excess property, or of any public utility owned by the City, or of the revenues thereof, or of both, including the case of a public utility, if deemed desirable by the City, a franchise stating the terms upon which, in case of foreclosure, the purchaser may operate such utility.

"Sec. 1.3. Additional Powers; Street and Sidewalk Improvements; Assessments Therefor. (a) In addition to any authority which is now or may hereafter be granted by general law to the City for making street improvements, the City Council is hereby authorized to make street improvements and to assess the total costs thereof against abutting property owners in accordance with the provisions of this act. The City Council may order street improvements and assess the costs thereof, exclusive of the costs incurred at street intersections, against the abutting property owners, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes, without the necessity of a petition, upon findings of fact by the Council that:

(1) Such street or part thereof is unsafe for vehicular traffic, and it is in the public interest to make such improvement;

(2) It is in the public interest to connect two streets or portions of a street already improved;

(3) It is in the public interest to widen a street, or part thereof, that is already improved. However, assessments for widening any street, or portion of street, without petition shall be limited to the cost of widening and otherwise improving such street in accordance with the street classification and improvement standard established by the City's thoroughfare or major street plan for the particular street, or part thereof to be widened and improved; or

(4) Such street, or part thereof, is in need of repair or pavement and it is in the public interest to make such improvements.

(b) For the purpose of this act, the term 'street improvement' shall include grading, regrading, surfacing, resurfacing, widening, paving, repaving, the acquisition of right-of-way and the construction or reconstruction of curbs, gutters and street drainage systems.
(c) In addition to any authority which is now or may hereafter be granted by general law to the City of Greenville for making sidewalk improvements, the City Council is hereby authorized, without the necessity of a petition, to make or to order to be made sidewalk improvements or repairs according to standards and specifications of the City, and to assess the total cost thereof against abutting property owners, according to one or more of the assessment bases set forth in Article 10, Chapter 160A of the North Carolina General Statutes; provided, however, that regardless of the assessment basis or bases employed, the Council may order the costs of sidewalk improvements made only on one side of a street to be assessed against property owners abutting both sides of such street.

(d) In ordering street and sidewalk improvements without a petition and assessing the costs thereof under authority of this act, the City Council shall comply with the procedure provided by Article 10, Chapter 160A of the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.

(e) The effect of the act of levying assessments under authority of this Article shall for all purposes be the same as if the assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes.

(f) This act shall be in addition to and not in derogation of any other powers already held by general laws or otherwise.

(g) Except as otherwise provided in this act, the City Council shall have the authority to determine by whom and in what manner the powers granted by this section shall be exercised.

"Sec. 1.4. Corporate Limits. The corporate limits of the City of Greenville shall be those existing at the time of the ratification of this Charter, as the same are set forth on the official map and written description of the City, and as the same may be altered from time to time in accordance with law. The official map and written description of the City, showing the current boundaries, shall be maintained permanently in the office of the City Clerk, and shall be available for public inspection. Upon alteration of the corporate limits pursuant to law, the Council shall cause to be made the appropriate changes to the official map and written description. In case of conflict the official map shall control.

"ARTICLE II.

"Governing Body.

"Sec. 2.1. Composition and Duties of Mayor and City Council. The Mayor and the City Council elected and constituted as herein set forth, shall be the governing body of the City. There shall be six members of the City Council. The Mayor shall have the right to vote on matters before the Council only when there is an equal number of votes in the affirmative and in the negative. On behalf of the City, and in conformity with applicable laws, the Mayor and Council may provide for the exercise of all municipal powers and shall be charged with the general government of the City.

"Sec. 2.2. Duties of Mayor. In addition to the powers and duties as are conferred by law and this Charter, the Mayor shall have such other powers and duties as may be conferred upon him by the Council pursuant to law.

"Sec. 2.3. Duties of Mayor Pro Tempore. Immediately after the newly elected members of the City Council have assumed the duties of office, the City Council shall elect one of its members as Mayor Pro Tempore, who shall have the
powers and duties prescribed by General Statutes and local law, and shall serve for a period of two years.

"ARTICLE III.

"Elections.

"Sec. 3.1. Regular Municipal Elections. Regular municipal elections shall be held in the City every two years in odd-numbered years, and shall be conducted in accordance with the uniform municipal election laws of North Carolina. The Mayor and members of the City Council shall be elected from the City at large according to the nonpartisan plurality election method.

"ARTICLE IV.

"Organization and Administration.

"Sec. 4.1. Form of Government. The City shall operate under the Council-Manager form of government in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Sec. 4.2. Appointment of Officers by City Council. The City Council shall appoint a City Manager and a City Attorney, each of whom must be or become a resident of the City to fulfill the appointment. The Council shall fix all salaries, prescribe bonds and require such oaths as they deem necessary.

"Sec. 4.3. City Manager. The City Manager shall perform the powers and duties as defined in Part 2 of Article 7 of Chapter 160A of the General Statutes and, in addition the Manager shall perform such other duties as may be required by the City Council.

"Sec. 4.4. City Attorney. The City Attorney shall be a licensed attorney who has practiced law in the State of North Carolina for at least five years. The City Attorney shall serve as the City Council’s legal advisor and perform such duties as are prescribed by law or required by the City Council.

"Sec. 4.5. Personal Interest. No member of the City Council nor any officer or employee of the City shall have a direct or indirect financial interest in any contract with the City, or be directly or indirectly financially interested in the sale to the City of any land, materials, supplies or services, except on behalf of the City as an officer or employee. Any willful violation of this section shall constitute malfeasance in office, and any officer or employee of the City found guilty thereof by a competent court of law shall thereby forfeit his or her office or position. Any violation of this section with the express or implied knowledge of the person or corporation contracting with the City shall render the contract voidable by the City Council."

Sec. 2. The purpose of this act is to revise the Charter of the City of Greenville and to consolidate herein certain acts concerning the property, affairs and government of the City. It is intended to continue without interruption those provisions of prior acts which are consolidated into this act so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 3. This act shall not be deemed to repeal, modify or in any manner affect any of the following acts, portions of acts or amendments thereto whether or not such acts, portions of acts or amendments are expressly set forth herein:

(1) Any acts concerning the property, affairs or government of public schools in the City of Greenville.

(2) Any act validating, confirming, approving, or legalizing official proceedings, actions, contracts or obligations of any kind.
Sec. 4. The following acts, or portions of acts, having served the purposes for which they were enacted or having been consolidated into this act are hereby repealed:

Chapter 278, Private Laws of 1901
Chapter 296, Public-Local Laws of 1937
Chapter 326, Public-Local Laws of 1939
Chapter 467, Public-Local Laws of 1939
Chapter 271, Public-Local Laws of 1941
Chapter 156, Private Laws of 1909
Chapter 121, Private Laws of 1901
Chapter 122, Private Laws of 1903
Chapter 236, Private Laws of 1907
Chapter 134, Private Laws of 1919
Chapter 123, Private Laws of 1931
Chapter 386, Private Laws of 1911
Chapter 176, Private Laws of 1917
Chapter 192, Private Laws of 1917
Chapter 496, Public-Local Laws of 1937
Chapter 462, Public-Local Laws of 1941
Chapter 124, Session Laws of 1943
Chapter 169, Public Laws of 1901
Chapter 160, Private Laws of 1913
Chapter 787, Public Laws of 1903
Chapter 12, Private Laws of 1931
Chapter 331, Private Laws of 1905
Chapter 186, Public-Local Laws of 1941
Chapter 979, Session Laws of 1947
Chapter 191, Session Laws of 1951
Chapter 910, Session Laws of 1957
Chapter 562, Session Laws of 1949
Chapter 743, Session Laws of 1957
Chapter 412, Session Laws of 1955
Chapter 376, Session Laws of 1965
Chapter 216, Session Laws of 1947
Chapter 422, Session Laws of 1951
Chapter 243, Session Laws of 1969
Chapter 331, Session Laws of 1977

Sec. 5. No provision of this act is intended nor shall be construed to affect in any way any rights or interests, whether public or private:

(1) Now vested or accrued in whole or in part, the validity of which might be sustained or preserved by reference to law to any provisions of law repealed by this act.

(2) Derived from or which might be sustained or preserved in reliance upon action heretofore taken pursuant to or within the scope of any provisions of law repealed by this act.

Sec. 6. All existing ordinances of the City, and all existing rules and regulations of departments and agencies of the City not inconsistent with provisions of this act shall continue in full force and effect until repealed, modified or amended.
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Sec. 7. No action or proceeding of any nature, whether civil or criminal, judicial or administrative, or otherwise pending at the effective date of this act by or against the City of Greenville or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 8. If any provisions of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 9. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of April, 1981.

H. B. 708  CHAPTER 273

AN ACT TO REDEFINE THE CORPORATE LIMITS OF THE TOWN OF BETHEL IN PITTCOUNTY TO ANNEX A CERTAIN AREA.

The General Assembly of North Carolina enacts:

Section 1. Chapter 997, Session Laws of 1969 is amended by deleting the metes and bounds description contained therein, and inserting in lieu thereof a new description of the corporate limits of the Town of Bethel to read:

"Beginning at a stake in the western right-of-way line of N. C. Highway No. 11, said stake being located 150 feet northwardly from the intersection of the northern right-of-way line of Harper Drive with the western right-of-way line of N. C. Highway No. 11; thence with the western line of N. C. Highway No. 11 S02°00'W., 62.0 feet; thence crossing N. C. Highway No. 11 and with the northern right-of-way line of S. R. 1501 N72°30'E., 237.0 feet; thence leaving said right-of-way of S. R. 1501 S19°43'E., 3,430 feet to a point in the center line of the Seaboard Coast Line Railroad track, thence S06°37'W., 500.2 feet to the northern right-of-way of South Railroad Street; thence with the northern right-of-way line of South Railroad Street S61°23'E., 107.9 feet; thence leaving said right-of-way N06°37'E., 108.8 feet; thence N81°36'E., 217.0 feet; thence S00°23'E, 205.5 feet to the southern right-of-way line of East Washington Street; thence with the southern right-of-way line of East Washington Street S81°12'W., 347.2 feet; thence leaving said right-of-way of East Washington Street S06°37'W, 1,828.1 feet; thence S83°23'E., 273 feet; thence S06°37'W, 671 feet to a point in the southern right-of-way line of the Flat Swamp Road; thence with the southern right-of-way line of the Flat Swamp Road N62°43'W., 355 feet; thence N69°W., 300 feet; thence N75°30'W., 376 feet; thence leaving the southern right-of-way of Flat Swamp Road S08°30'W., 558.6 feet to an iron stake; thence S06°30'W., 176.5 feet to an iron stake; thence S08°30'W., 461.27 feet to the center of the VEPCO primary power transmission line; thence with the center of the VEPCO power line S78°27'W., 2,497.15 feet to a hedgerow dividing the Blount and Carson properties; thence with the Blount-Carson line N03°35'E., 880.7 feet to the center of N. C. S. R. No. 1429; thence with said road N74°52'W., 165 feet; thence leaving said road N29°12'W., 1,718.45 feet; thence N40°12'W., 1,190 feet; thence N04°30'W., 200.0 feet to a point in the southern right-of-way line of West Washington Street; thence with the southern right-of-way line of West Washington Street S85°30'W., 1,370 feet; thence S85°02'W., 699.4 feet; thence leaving said right-of-way of West
Washington Street N05°27'W., 422.0 feet to a point in the centerline of the Seaboard Coastline Railroad track; thence with the centerline of the Seaboard Coastline Railroad track N84°52'E., 2,744.9 feet; thence leaving said centerline of the Seaboard Coastline Railroad and with the eastern side of a ditch N07°30'W., 495 feet to an iron stake; thence N72°00'E., 715 feet; thence parallel and 150 feet westerly from the western right-of-way line of Robinson Street N06°30'E., 2,540 feet more or less to the southern right-of-way line of Hammond Avenue; thence with the southern line of Hammond Avenue S84°00'E., 470.0 feet more or less to the centerline of a canal; thence with the centerline of said canal N03°57'E., 1,490.0 feet; thence N04°35'E., 361.0 feet to the centerline intersection of a ditch; thence with the centerline of said ditch S72°00'E., 659.5 feet; thence leaving centerline of said ditch and with the eastern right-of-way of Greenbriar Road extension S03°45'W., 1,514.0 feet; thence leaving said eastern right-of-way of Greenbriar Road extension S84°00'E., 150.0 feet; thence N02°00'E., 400 feet; thence S87°45'E., 1,108 feet to the point of beginning:"

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of April, 1981.

H. B. 485  .  CHAPTER 274

AN ACT TO REMOVE THE PRESUMPTION THAT THE HUSBAND IS THE SUPPORTING SPOUSE FOR THE PURPOSE OF ALIMONY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 50-16.1(4) is rewritten as follows:

"(4) 'Supporting spouse' means a spouse, whether husband or wife, upon whom the other spouse is actually substantially dependent or from whom such other spouse is substantially in need of maintenance and support."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of April, 1981.

S. B. 153  CHAPTER 275

AN ACT TO RECODIFY THE SOCIAL SERVICES LAWS IN G.S. CHAPTER 108.

Whereas, the Social Services Study Commission was created by Chapter 992 of the 1979 Session Laws; and

Whereas, the Study Commission was directed to study "Federal and State Statutes and Regulations governing and relating to Social Services and Public Assistance in North Carolina"; and

Whereas, the Study Commission has reviewed the main body of social services laws as presently codified in G.S. Chapter 108; and

Whereas, the Social Services Study Commission has decided to recommend a Recodification Act that rewrites and reorganizes some provisions, while retaining the basic concepts and requirements of existing law and practice in Chapter 108; Now, therefore,

The General Assembly of North Carolina enacts:
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Section 1. G.S. Chapter 108 is hereby repealed and a new Chapter 108A substituted in lieu thereof, to read as follows:

"Chapter 108A.
Social Services.
"ARTICLE 1.
County Administration.


"§ 108A-1. Creation.—Every county shall have a board of social services which shall establish county policies for the programs established by this Chapter in conformity with the rules and regulations of the Social Services Commission and under the supervision of the Department of Human Resources. Provided, however, county policies for the program of medical assistance shall be established in conformity with the rules and regulations of the Department of Human Resources.

"§ 108A-2. Size.—The county board of social services in each county shall consist of three members, except that the board of commissioners of any county may increase such number to five members. The decision to increase the size to five members or to reduce a five-member board to three shall be reported immediately in writing by the chairman of the board of commissioners to the Department of Human Resources.

"§ 108A-3. Method of appointment; residential qualifications; fee or compensation for services.—(a) Three-member Board: The board of commissioners shall appoint one member who may be a county commissioner or a citizen selected by the board; the Social Services Commission shall appoint one member; and the two members so appointed shall select the third member. In the event the two members so appointed are unable to agree upon selection of the third member, the senior regular resident superior court judge of the county shall make the selection.

(b) Five-member Board: The procedure set forth in subsection (a) shall be followed, except that both the board of commissioners and the Social Services Commission shall appoint two members each, and the four so appointed shall select the fifth member. If the four are unable to agree upon the fifth member, the senior regular superior court judge of the county shall make the selection.

(c) Provided further that each member so appointed under subsection (a) and subsection (b) of this section by the Social Services Commission and by the county board of commissioners or the senior regular resident superior court judge of the county, shall be bona fide residents of the county from which they are appointed to serve, and will receive as their fee or compensation for their services rendered from the Department of Human Resources directly or indirectly only the fees and compensation as provided by G.S. 108A-8.

"§ 108A-4. Term of appointment.—Each member of a county board of social services shall serve for a term of three years. No member may serve more than two consecutive terms.

"§ 108A-5. Order of appointment.—(a) Three-member Board: The term of the member appointed by the Social Services Commission shall expire on June 30, 1981, and every three years thereafter; the term of the member appointed by the board of commissioners shall expire on June 30, 1983, and every three years thereafter; and the term of the third member shall expire on June 30, 1982, and every three years thereafter.
(b) Five-member Board: Whenever a board of commissioners of any county decides to expand a three-member board to a five-member board of social services, the Social Services Commission shall appoint an additional member for a term expiring at the same time as the term of the existing member appointed by the board of commissioners, and the board of commissioners shall appoint an additional member for a term expiring at the same time as the term of the existing member appointed by the Social Services Commission. The change to a five-member board shall become effective at the time when the additional members shall have been appointed by both the county board of commissioners and the Social Services Commission. Thereafter all appointments shall be for three-year terms.

(c) Change from Five-member to Three-member Board: The change shall become effective on the first day of July following the decision to change by the board of commissioners. On that day, the following two seats on the board of social services shall cease to exist:

(1) The seat held by the member appointed by the Social Services Commission whose term would have expired on June 30, 1983, or triennially thereafter; and

(2) The seat held by the member appointed by the board of commissioners whose term would have expired June 30, 1981, or triennially thereafter.

“§ 108A-6. Vacancies.—Appointments to fill vacancies shall be made in the manner set out in G.S. 108A-3. All such appointments shall be for the remainder of the former member's term of office and shall not constitute a term for the purposes of G.S. 108A-4.

“§ 108A-7. Meetings.—The board of social services of each county shall meet at least once per month, or more often if a meeting is called by the chairman. Such board shall elect a chairman from its members at its July meeting each year, and the chairman shall serve a term of one year or until a new chairman is elected by the board.

“§ 108A-8. Compensation of members.—Members of the county board of social services may receive a per diem in such amount as shall be established by the county board of commissioners and travel expenses not to exceed the amounts provided by G.S. 138-5 for attendance at official meetings and conferences, provided such per diem or travel is authorized by the board of commissioners.

“§ 108A-9. Duties and responsibilities.—The county board of social services shall have the following duties and responsibilities:

(1) To select the county director of social services according to the merit system rules of the State Personnel Commission;

(2) To advise county and municipal authorities in developing policies and plans to improve the social conditions of the community;

(3) To consult with the director of social services about problems relating to his office, and to assist him in planning budgets for the county department of social services;

(4) To transmit or present the budgets of the county department of social services for public assistance, social services, and administration to the board of county commissioners;

(5) To have such other duties and responsibilities as the General Assembly, the Department of Human Resources or the Social Services Commission or the board of county commissioners may assign to it.
"§ 108A-10. Fees.—The county board of social services is authorized to enter into contracts with any governmental or private agency, or with any person, whereby the board of social services agrees to render services to or for such agency or person in exchange for a fee to cover the cost of rendering such service. This authority is to be limited to services voluntarily rendered and voluntarily received, but shall not apply where the charging of a fee for a particular service is specifically prohibited by statute or regulation. The fees to be charged under the authority of this section are to be based upon a plan recommended by the county director of social services and approved by the local board of social services and the board of county commissioners. In no event is the fee charged to exceed the cost to the board of social services. Fee policies may not conflict with rules and regulations adopted by the Social Services Commission or Department of Human Resources regarding fees.

The fees collected under the authority of this section are to be deposited to the account of the social services department so that they may be expended for social services purposes in accordance with the provisions of Article 3 of G.S. Chapter 159, the Local Government Budget and Fiscal Control Act. No individual employee is to receive any compensation over and above his regular salary as a result of rendering services for which a fee is charged.

The county board of social services shall annually report to the county commissioners receipts received under this section. Fees collected under this section shall not be used to replace any other funds, either State or local, for the program for which the fees were collected.

"§ 108A-11. Inspection of records by members.—Every member of the county board of social services may inspect and examine any record on file in the office of the director relating in any manner to applications for and provision of public assistance and social services authorized by this Chapter. No member shall disclose or make public any information which he may acquire by examining such records.


"Part 2. County Director of Social Services.

"§ 108A-17. Appointment.—(a) The board of social services of every county shall appoint a director of social services in accordance with the merit system rules of the State Personnel Commission. Any director dismissed by such board shall have the right of appeal under the same rules.

(b) Two or more boards of social services may jointly employ a director of social services to serve the appointing boards and such boards may also combine any other functions or activities as authorized by Part 1 of Article 20 of Chapter 160A. The boards shall agree on the portion of the director's salary and the portion of expenses for other joint functions and activities that each participating county shall pay.

"§ 108A-18. Salary.—The board of social services of every county, with the approval of the board of county commissioners, shall determine the salary of the director in accordance with the classification plan of the State Personnel Commission, and such salary shall be paid by the county from the federal, State and county funds available for this purpose.

"§ 108A-19. Duties and responsibilities.—The director of social services shall have the following duties and responsibilities:

(1) To serve as executive officer of the board of social services and act as its secretary;
(2) To appoint necessary personnel of the county department of social services in accordance with the merit system rules of the State Personnel Commission;

(3) To administer the programs of public assistance and social services established by this Chapter under pertinent rules and regulations;

(4) To administer funds provided by the board of commissioners for the care of indigent persons in the county under policies approved by the county board of social services;

(5) To act as agent of the Social Services Commission and Department of Human Resources in relation to work required by the Social Services Commission and Department of Human Resources in the county;

(6) To investigate cases for adoption and to supervise adoptive placements;

(7) To issue employment certificates to children under the regulations of the State Department of Labor;

(8) To supervise boarding homes, rest homes and convalescent homes for aged or infirm persons, under the rules and regulations of the Social Services Commission;

(9) To assist and cooperate with the Department of Correction and their representatives;

(10) To act in conformity with the provisions of Article 7, Chapter 35 of the General Statutes with regard to sterilization of mentally ill and mentally retarded persons;

(11) To investigate reports of child abuse and neglect and to take appropriate action to protect such children pursuant to the Child Abuse Reporting Law, Article 44 of G.S. Chapter 7A; and

(12) To accept children for placement in foster homes and to supervise placements for so long as such children require foster home care.

"§ 108A-20. Social services officials and employees as public guardians.—The director and assistant directors of social services of each county are authorized to serve as guardians for adults adjudicated incompetent under the provisions of G.S. Chapter 35, Article 1A, and they shall do so if ordered to serve in that capacity by the clerk of the superior court having jurisdiction of a guardianship proceeding brought under that Article.

"Part 3. Special County Attorneys for Social Service Matters.

"§ 108A-21. Appointment.—With the approval of the board of social services, the board of commissioners of any county may appoint a licensed attorney to serve as a special county attorney for social service matters, or designate the county attorney as special county attorney for social service matters.

"§ 108A-22. Compensation.—The special county attorney for social service matters shall receive compensation for the performance of his duties and for his expenses in such amount as the board of commissioners may provide. His compensation shall be a proper item in the annual budget of the county department of social services.

"§ 108A-23. Duties and responsibilities.—(a) The special county attorney shall have the following duties and responsibilities:

(1) To serve as legal advisor to the county director, the county board of social services, and the board of county commissioners on social service matters;

(2) To represent the county, the plaintiff, or the obligee in all proceedings brought under G.S. Chapter 52A, the Uniform Reciprocal Enforcement
of Support Act and to exercise continuous supervision of compliance with any order entered in any proceeding under that act;

(3) To represent the county board of social services in appeal proceedings and in any litigation relating to appeals;

(4) To assist the district attorney with the preparation and prosecution of criminal cases under Article 40 of G.S. Chapter 14, entitled 'Protection of the Family';

(5) To assist the district attorney with the preparation and prosecution of proceedings authorized by G.S. Chapter 49, entitled 'Bastardy';

(6) To perform such other duties as may be assigned to him by the board of county commissioners, the board of social services, or the director of social services.

(b) In performing any of the duties and responsibilities set out in this section, the special county attorney is authorized to call upon any director of social services or the Department of Human Resources for any information as he may require to perform his duties, and such director and Department are directed to assist him in performing such duties.


"ARTICLE 2.

"Programs of Public Assistance.

"§ 108A-28. Creation of programs.—(a) The following programs of public assistance are hereby established, and shall be administered by the county department of social services or the Department of Human Resources under federal regulations or under rules and regulations adopted by the Social Services Commission and under the supervision of the Department of Human Resources:

1. Aid to families with dependent children;
2. State-county special assistance for adults;
3. Food stamp program;
4. Foster care and adoption assistance payments;
5. Low income energy assistance program.

(b) The program of medical assistance is hereby established as a program of public assistance and shall be administered by the county departments of social services under rules and regulations adopted by the Department of Human Resources.

(c) The Department of Human Resources is hereby authorized to accept all grants-in-aid for programs of public assistance which may be available to the State by the federal government. The provisions of this Article shall be liberally construed in order that the State and its citizens may benefit fully from such grants-in-aid.

"§ 108A-29. Definitions.—As used in Chapter 108A:

1. ‘Applicant’ is any person who requests assistance or on whose behalf assistance is requested.

2. ‘Department’ is the Department of Human Resources, unless the context clearly indicates otherwise.

3. ‘Dependent child’ is a person under 18 years of age who is living with a natural parent, adoptive parent, stepparent, or any other person related by blood, marriage, or legal adoption, in a place of residence maintained by one or more of such persons as his or their own home, and who is deprived of parental support or care; it shall also include a minor who has been eligible for AFDC who is now living in a foster-care facility or child-caring institution; it shall also
include a dependent child in school under 21 years of age as provided by Titles IV-A and XIX of the Social Security Act.

(4) 'Permanently and totally disabled' is a person who has a physical or mental impairment which substantially precludes him from obtaining gainful employment, and such impairment appears reasonably certain to continue without substantial improvement throughout his lifetime.

(5) 'Recipient' is a person to whom, or on whose behalf, assistance is granted under this Article.

(6) 'Resident', unless otherwise defined by federal regulation, is a person who is living in North Carolina at the time of application with the intent to remain permanently or for an indefinite period; or who is a person who enters North Carolina seeking employment or with a job commitment.

(7) 'Secretary' is the Secretary of Human Resources, unless the context clearly indicates otherwise.

"§ 108A-30. Certain financial assistance and in-kind goods not considered in determining assistance paid under Chapters 108A and 111.—Financial assistance and in-kind goods or services received from a governmental agency, or from a civic or charitable organization, shall not be considered in determining the amount of assistance to be paid any person under Chapters 108A and 111 of the General Statutes provided that such financial assistance and in-kind goods and services are incorporated in the rehabilitation plan of such person being assisted by the Division of Vocational Rehabilitation Services or the Division of Services for the Blind of the Department of Human Resources, except where such goods and services are required to be considered by federal law or regulations.


"Part 1. Aid to Families with Dependent Children.

"§ 108A-37. Authorization of Aid to Families with Dependent Children Program.—The Department is authorized to establish and supervise an Aid to Families with Dependent Children Program. This program is to be administered by county departments of social services under federal regulations and rules and regulations of the Social Services Commission.

"§ 108A-38. Eligibility requirements; certain contributions to be disregarded.—(a) Assistance shall be granted to any dependent child, as defined in G.S. 108A-29(3), who:

(1) Is a resident of the State or whose mother was a resident when the child was born;

(2) Has been deprived of parental support or care by reason of a parent’s death, physical or mental incapacity, or continued absence from the home;

(3) Has no adequate means of support.

(b) Assistance shall be granted to a parent or relative, as specified in G.S. 108A-29(3), with whom a dependent child lives who:

(1) Is assuming responsibility for the child’s ongoing care;

(2) Is a resident of the State;

(3) Has no adequate means of support.

"§ 108A-39. Limitations on eligibility.—(a) The Social Services Commission shall adopt such administrative rules concerning work requirements as conditions of eligibility for aid to families with dependent children in order to be in compliance with federal regulations, but such rules shall not be more
restrictive than the work requirements applicable to the work incentive program provided for in G.S. 108A-40.

(b) Members of families with dependent children and with aggregate family income at or below the level required for eligibility for aid to families with dependent children assistance, regardless of whether or not they have applied for such assistance, shall be given priority in obtaining manpower services including training and public service employment provided by or through State agencies or with funds which are allocated to the State of North Carolina directly or indirectly through prime sponsors or otherwise for the purpose of employment of unemployed persons.

"§ 108A-40. Work incentive program adopted; evidence of refusal to participate in special work projects; protective and vendor payments.—(a) The provisions of Part C of Title IV of the Federal Social Security Act pertaining to the work incentive program for recipients of aid to families with dependent children assistance, and the benefits thereunder, are hereby accepted and adopted.

(b) The work incentive program provided for by this section is a part of, and subject to all the same provisions of law as, the aid to families with dependent children program provided for in this Article; except that in the case of inconsistent provisions, the provisions of this section shall be deemed exceptions to other provisions of law in this Article.

(c) Written notice of a finding by the United States Secretary of Labor, or the United States Department of Labor, the Employment Security Commission, or other authorized agent of the Secretary of Labor as to whether a person has refused without good cause to accept employment or participate in a project shall be binding upon the State and its agencies and the political subdivisions of the State. Any other provision of law to the contrary notwithstanding, the original or copy of such a notice bearing the certification of a State or county agency that it is the original or true copy of the original in or from the records of the agency shall be admissible in evidence without the appearance of a witness, and it shall be prima facie evidence that it was duly received by the agency from the Secretary of Labor or his authorized agent.

(d) Protective and vendor payments required to be made under the work incentive program shall be made in accordance with federal rules and regulations and the rules and regulations of the Social Services Commission.

"§ 108A-41. Application for assistance.—Any person or his representative who believes that he or another person is eligible to receive aid to families with dependent children may apply for assistance to the county department of social services in the county in which the applicant resides. It shall be made in such form and shall contain such information as the Social Services Commission and federal regulations may require.

"§ 108A-42. Investigation of applicant.—Upon receipt of an application for public assistance, the county department shall make a prompt evaluation or investigation of the facts alleged in the application in order to determine the applicant’s eligibility for assistance and to obtain such other information as the Department may require.

"§ 108A-43. Granting or denial of assistance.—(a) The county director of social services shall submit his findings and recommendations on each application for aid to families with dependent children to the county board of social services at its next meeting for its approval of assistance in each case; but
the board of social services may delegate to the director the authority to consider, process and approve or reject all applications for assistance, in which event the director shall not be required to report his actions to the board.

(b) The county board of social services may delegate authority to the director to consider and process applications for assistance in all cases that require immediate action to prevent undue hardship; in such cases, the director shall report on his actions to the board at its next meeting, and the board shall approve, reject or modify such decisions.

(c) The board of county commissioners may review any final action of the county board of social services or the county director of social services with regard to any application for assistance or modifying or terminating any public assistance previously made. The recipient of disputed assistance shall receive notice of the time and place of such review. If the board of commissioners deems that assistance was improperly allowed or denied under federal regulations and policies of the Social Services Commission or the Department, it may order that proper action be taken, with notice thereof given to the recipient and a copy to the county board of social services and the Secretary. Any modification made by the board of county commissioners shall be subject to review by the Secretary.

(d) All rules and regulations of the Social Services Commission or the Department which govern eligibility for public assistance from State appropriations or the amount of public assistance shall be subject to the approval of the Director of the Budget and the Advisory Budget Commission.

"§ 108A-44. Reconsideration of public assistance.—All public assistance shall be considered as frequently as required by the rules of the Social Services Commission or the Department in the case of medical assistance. Whenever the condition of any recipient has changed to the extent that his assistance must be modified or terminated, the county director may make the appropriate termination or change in payment and submit it to the county board of social services for approval at its next meeting, but the board may waive the requirement that the director submit his actions to the board for its approval.

"§ 108A-45. Removal to another county.—Any recipient who moves from one county to another county of this State shall continue to receive public assistance if eligible. The county director in the county from which he has moved shall transfer all necessary records relating to the recipient to the county director of the county to which the recipient has moved. The county from which the recipient moves shall pay the amount of assistance to which the recipient is entitled for a period of one month following his move, and thereafter the county to which the recipient has moved shall pay such assistance.

"§ 108A-46. Assistance not assignable; checks payable to decedents.—The assistance granted by this Article shall not be transferable or assignable at law or in equity; and none of the money paid or payable as assistance shall be subject to execution, levy, attachment, garnishment, or other legal processes, or to the operation of any bankruptcy or insolvency law.

In the event of the death of a public assistance recipient during or after the first day of the month for which assistance was previously authorized by the county social services board, or county director if waived, any public assistance check or checks payable to such recipient not endorsed prior to such recipient's death shall be delivered to the clerk of superior court and by him administered under the provisions of G.S. 28A-25-6.
"§ 108A-47. Personal representative for mismanaged public assistance.—(a) Whenever a county director of social services shall determine that a recipient of assistance is unwilling or unable to manage such assistance to the extent that deprivation or hazard to himself or others results, the director shall file a petition before a district court or the clerk of superior court in the county alleging such facts and requesting the appointment of a personal representative to be responsible for receiving such assistance and to use it for the benefit of the recipient.

(b) Upon receipt of such petition, the court shall promptly hold a hearing, provided the recipient shall receive five days' notice in writing of the time and place of such hearing. If the court, sitting without a jury, shall find at the hearing that the facts alleged in the petition are true, it may appoint some responsible person as personal representative. The personal representative shall serve without compensation and be responsible to the court for the faithful performance of his duties. He shall serve until the director of social services or the recipient shows to the court that the personal representative is no longer required or is unsuitable. All costs of court relating to proceedings under this section shall be waived.

(c) Any recipient for whom a personal representative is appointed may appeal such appointment to superior court for a hearing de novo without a jury.

(d) All findings of fact made under the proceedings authorized by this section shall not be competent as evidence in any case or proceeding which concerns any subject matter other than that of appointing a personal representative.

"§ 108A-48. Protective and vendor payments.—Instead of the use of personal representatives provided for by G.S. 108A-47, when necessary to comply with any present or future federal law or regulation in order to obtain federal participation in public assistance payments, the payments may be made direct to vendors to reimburse them for goods and services provided to the applicants or recipients, and may be made to protective payees who shall act for the applicant or recipient for receiving and managing assistance. Payments to vendors and protective payees shall be made to the extent provided in, and in accordance with, rules and regulations of the Social Services Commission or the Department, which rules and regulations shall be subject to applicable federal laws and regulations.

"§ 108A-49. Fraudulent misrepresentation.—(a) Any person whether provider or recipient, or person representing himself as such, who willfully and knowingly and with intent to deceive makes a false statement or representation or who fails to disclose a material fact and as a result of making a false statement or representation or failing to disclose a material fact obtains, for himself or another person, attempts to obtain for himself or another person, or continues to receive or enables another person to continue to receive public assistance in the amount of not more than four hundred dollars ($400.00) is guilty of a misdemeanor, and upon conviction or plea of guilty shall be fined or imprisoned or both at the discretion of the court.

(b) Any person, whether provider or recipient, or person representing himself as such who willfully and knowingly with the intent to deceive makes a false statement or representation or fails to disclose a material fact and as a result of making a false statement or representation or failing to disclose a material fact, obtains for himself or another person, attempts to obtain for himself or another person, or continues to receive or enables another person to continue to receive
public assistance in an amount of more than four hundred dollars ($400.00) is
guilty of a Class I felony.

c) As used in this section the word 'person' means person, association,
consortium, corporation, body politic, partnership, or other group, entity, or
organization.


"Part 2. State-County Special Assistance for Adults.

"§ 108A-54. Authorization of State-County Special Assistance for Adults
Program.—The Department is authorized to establish and supervise a State-
County Special Assistance for Adults Program. This program is to be
administered by county departments of social services under rules and
regulations of the Social Services Commission.

"§ 108A-55. Eligibility.—(a) Assistance shall be granted under this Part to all
persons in domiciliary facilities for care found to be essential in accordance with
the rules and regulations adopted by the Social Services Commission.

(b) Assistance shall be granted to any person who:

   (1) is 65 years of age and older, or is between the ages of 18 and 65 and is
   permanently and totally disabled; and

   (2) has insufficient income or other resources to provide a reasonable
   subsistence compatible with decency and health as determined by the
   rules and regulations of the Social Services Commission; and

   (3) is a resident of North Carolina.

(c) The county shall also have the option of granting assistance to Certain
Disabled persons as defined in the rules and regulations adopted by the Social
Services Commission. Nothing in this Part should be interpreted so as to
preclude any individual county from operating any program of financial
assistance using only county funds.

"§ 108A-56. Determination of disability.—(a) An applicant between the ages
of 18 and 65 seeking assistance under this Part must be found to be permanently
and totally disabled as defined in G.S. 108A-29(4) by a physician or by a medical
review board; such physician or board must submit any findings of disability to
the county department of social services for transmittal to the Department.

(b) All applications for assistance as a permanently and totally disabled
person under this Part shall be reviewed by medical consultants employed by
the Department. The final decision on the disability factor shall be made by
such medical consultants under rules and regulations adopted by the Social
Services Commission.

"§ 108A-57. Application procedure.—(a) Applications under this Part shall be
made to the county director of social services who, with the approval of the
county board of social services and in conformity with the rules and regulations
of the Social Services Commission, shall determine whether assistance shall be
granted and the amount of such assistance; but the county board of social
services may delegate to the county director the authority to approve or reject
all applications for assistance under this Part, in which event the county
director shall not be required to report his actions to the board.

(b) The amount of assistance which any eligible person may receive shall be
determined with regard to the resources and necessary expenditures of the
applicant, in accordance with the appropriate rules and regulations of the Social
Services Commission.
"§ 108A-58. State funds to counties.—(a) Appropriations made under this Part by the General Assembly to the Department, together with grants of the federal government (when such grants are made available to the State) shall be used exclusively for assistance to needy persons eligible under this Part.

(b) Allotments shall be made annually by the Department to the counties participating in the program established by this Part.

(c) No allotment shall be used, either directly or indirectly, to replace county appropriations or expenditures.

"§ 108A-59. Participation.—The State-County Special Assistance for Adults Program established by this Part shall be administered by all the county departments of social services under rules and regulations adopted by the Social Services Commission and under the supervision of the Department. Provided that, assistance for Certain Disabled persons shall be provided solely at the option of the county.

"§ 108A-60. Transfer of real property for purposes of qualifying for State-county special assistance for adults; periods of ineligibility.—Any person applying for State-county special assistance for adults who has conveyed, transferred or disposed of any real property within one year prior to the date of making application and any person applying for or receiving State-county special assistance for adults who conveys, transfers or disposes of any real property during the application process or during any period of continuing eligibility without receiving consideration equivalent to the latest tax value of said property, as ascertained according to Subchapter II of Chapter 105 of the General Statutes, shall, unless shown to the contrary, be presumed to have made such transfer, conveyance or disposition in order to qualify or continue to qualify for State-county special assistance for adults and shall be ineligible to receive such benefits thereafter until an amount equivalent to the latest tax value of such property shall have been expended by or in behalf of such person for his maintenance need, including needs for medical care, or in accordance with the following schedule, whichever is sooner:

(1) Property tax value of ten thousand dollars ($10,000) or more - three-year period of ineligibility from date of transfer;

(2) Property tax value of less than ten thousand dollars ($10,000) but more than five thousand dollars ($5,000) - two-year period of ineligibility from date of transfer;

(3) Property tax value of five thousand dollars ($5,000) or less but more than one thousand dollars ($1,000) - one-year period of ineligibility from date of transfer.

Any State-county special assistance for adults applicant or recipient shall have a right to appeal, in accordance with the provisions of G.S. 108A-120, the decision denying or terminating such assistance.

"§ 108A-61. Limitations on payments.—No payment of assistance under this Part shall be made for the care of any person in a domiciliary facility which is owned or operated in whole or in part by any of the following:

(1) A member of the Social Services Commission, of any county board of social services, or of any board of county commissioners;

(2) An official or employee of the Department or of any county department of social services;

(3) A spouse of a person designated in subdivisions (1) and (2).

“Part 3. Foster Care and Adoption Assistance Payments.

§ 108A-65. State Foster Care Benefits Program.—(a) The Department is authorized to establish a State Foster Care Benefits Program with appropriations by the General Assembly for the purpose of providing assistance to children who are placed in foster care facilities by county departments of social services in accordance with the rules and regulations of the Social Services Commission. Such appropriations, together with county contributions for this purpose, shall be expended to provide for the costs of keeping children in foster care facilities.

(b) No benefits provided by this section shall be granted to any individual who has passed his eighteenth birthday unless he is less than 21 years of age and is a full-time student or has been accepted for enrollment as a full-time student for the next school term pursuing a high school diploma or its equivalent; a course of study at the college level; or a course of vocational or technical training designed to fit him for gainful employment.

§ 108A-66. Foster Care and Adoption Assistance Payments.—(a) Benefits in the form of Foster Care Assistance shall be granted in accordance with the rules and regulations of the Social Services Commission to any dependent child who is eligible to receive AFDC but for his or her removal from the home of a specified relative for placement in a foster care facility; provided, that the child’s placement and care is the responsibility of a county department of social services.

(b) Adoption assistance payments for Certain Adoptive Children shall be granted in accordance with the rules and regulations of the Social Services Commission to adoptive parents who adopt a child eligible to receive Foster Care Maintenance payments or Supplemental Security Income benefits; provided, that the child cannot be returned to his or her parents and provided that the child has special needs which create a financial barrier to adoption.

(c) The Department is authorized to use available federal payments to states under Title IV-E of the Social Security Act for Foster Care and Adoption Assistance payments.

§ 108A-67. State Benefits For Certain Adoptive Children.—(a) The Department is authorized to establish a program of State Benefits for Certain Adoptive Children from appropriations made by the General Assembly and from grants available from the federal government to the State. This program shall be used exclusively for the purpose of meeting the needs of adoptive children who are physically or mentally handicapped, older, or otherwise hard to place for adoption.

(b) The purpose of this program is to encourage, within the limits of available funds, the adoption of certain hard-to-place children in order to make it possible for children living in, or likely to be placed in foster homes or institutions, to benefit from the stability and security of permanent homes where such children can receive continuous care, guidance, protection and love to reduce the number of such children who might be placed or remain in foster homes or institutions until they become adults.

(c) Eligibility for an adoptive child to receive assistance shall be determined by the Department under the rules and regulations of the Social Services Commission.

(d) Financial assistance under this program shall not be provided when the needed services are available free of cost to the adoptive child; or are covered by
an insurance policy of the adoptive parents; or are available to the child under
the Adoption Assistance Program specified in G.S. 108A-66.

Part 4. Food Stamp Program.
§ 108A-70. Authorization for Food Stamp Program.—The Department is
authorized to establish a statewide food stamp program as authorized by the
Congress of the United States. The Department of Human Resources is
designated as the State agency responsible for the supervision of such programs.
The boards of county commissioners through the county departments of social
services are held responsible for the administration and operation of the
programs.

§ 108A-71. Determination of eligibility.—Any person who believes that he
or another person is eligible to receive food stamps may apply for such
assistance to the county department of social services in the county in which
the applicant resides. The application shall be made in such form and shall
contain such information as the Social Services Commission may require. Upon
receipt of an application for food stamps, the county department of social
services shall make a prompt evaluation or investigation of the facts alleged in
the application in order to determine the applicant’s eligibility for such
assistance and to obtain such other information as the Department may
require. Upon the completion of such investigation, the county department of
social services shall, within a reasonable period of time, determine eligibility.

§ 108A-72. Fraudulent misrepresentation.—(a) Any person, whether
provider or recipient or person representing himself as such, who knowingly
obtains or attempts to obtain, or aids or abets any person to obtain by means of
making a willfully false statement or representation or by impersonation or by
failing to disclose material facts or in any manner not authorized by this Part or
the regulations issued pursuant thereto, transfers with intent to defraud any
food stamps or authorization cards to which he is not entitled in the amount of
four hundred dollars ($400.00) or less shall be guilty of a misdemeanor.
Whoever knowingly obtains or attempts to obtain, or aids or abets any person to
obtain by means of making a willfully false statement or representation or by
impersonation or by failing to disclose material facts or in any manner not
authorized by this Part or the regulations issued pursuant thereto, transfers
with intent to defraud any food stamps or authorization cards to which he is
not entitled in an amount more than four hundred dollars ($400.00) shall be
guilty of a felony and shall be punished as in cases of larceny.

(b) Whoever presents, or causes to be presented, food stamps or authorization
cards for payment or redemption, knowing the same to have been received,
transferred, or used in any manner in violation of the provisions of this Part or
the regulations issued pursuant to this Part shall be guilty of a misdemeanor
and upon conviction or plea of guilty shall be fined or imprisoned or both at the
discretion of the court.

(c) Whoever receives any food stamps for any consumable item knowing that
such food stamps were procured fraudulently under subsections (a) and/or (b) of
this section shall be guilty of a misdemeanor and upon conviction or plea of
guilty shall be fined or imprisoned or both at the discretion of the court.

(d) Whoever receives any food stamps for any consumable item whose
exchange is prohibited by the United States Department of Agriculture shall be
guilty of a misdemeanor and upon conviction or plea of guilty shall be fined or imprisoned or both at the discretion of the court.


"Part 5. Medical Assistance Program.

"§ 108A-76. Authorization of Medical Assistance Program.—The Department is authorized and empowered to establish a Medical Assistance Program from federal, State and county appropriations and to adopt rules and regulations under which payments are to be made in accordance with the provisions of this Part. The nonfederal share may be divided between the State and the counties, in a manner consistent with the provisions of the federal Social Security Act, except that the share required from the counties may not exceed the share required from the State. If a portion of the nonfederal share is required from the counties, the boards of county commissioners of the several counties shall levy, impose and collect the taxes required for the special purpose of medical assistance as provided in this Part, in an amount sufficient to cover each county's share of such assistance.

"§ 108A-77. Payments.—The Department may authorize, within appropriations made for this purpose, payments of all or part of the cost of medical and other remedial care for any eligible person when it is essential to the health and welfare of such person that such care be provided, and when the total resources of such person are not sufficient to provide the necessary care. Payments shall be made only to intermediate care facilities, hospitals and nursing homes licensed and approved under the laws of the State of North Carolina or under the laws of another state, or to pharmacies, physicians, dentists, optometrists or other providers of health-related services authorized by the Department. Payments may also be made to such fiscal intermediaries and to such prepaid health service contractors as may be authorized by the Department.

Provided, no payments shall be made for the care of any person in a nursing home or intermediate care home which is owned or operated in whole or in part by a member of the Social Services Commission, of any county board of social services, or of any board of county commissioners, or by an official or employee of the Department or of any county department of social services or by a spouse of any such person.

"§ 108A-78. Acceptance of federal grants.—All of the provisions of the federal Social Security Act providing grants to the states for medical assistance are accepted and adopted, and the provisions of this Part shall be liberally construed in relation to such act so that the intent to comply with it shall be made effectual. Nothing in this Part or the regulations made under its authority shall be construed to deprive a recipient of assistance of the right to choose the licensed provider of the care or service made available under this Part within the provisions of the federal Social Security Act.

"§ 108A-79. Subrogation rights; withholding of information a misdemeanor.—(a) Notwithstanding any other provisions of the law, to the extent of payments under this Part, the State, or the county providing medical assistance benefits, shall be subrogated to all rights of recovery, contractual or otherwise, of the beneficiary of such assistance, or of his personal representative, his heirs, or the administrator or executor of his estate, against any person. It shall be the responsibility of the county attorney or an attorney retained by the county and/or the State to enforce this section, and said attorney shall be compensated
for his services in accordance with the attorneys’ fee arrangements approved by the Department. The United States and the State of North Carolina shall be entitled to shares in each net recovery under this section. Their shares shall be promptly paid under this section and their proportionate parts of such sum shall be determined in accordance with the matching formulas in use during the period for which assistance was paid to the recipient.

(b) It shall be a misdemeanor for any person seeking or having obtained assistance under this Part for himself or another to willfully fail to disclose to the county department of social services or its attorney the identity of any person or organization against whom the recipient of assistance has a right of recovery, contractual or otherwise.

“§ 108A-80. Transfer of real property for purposes of qualifying for medical assistance; periods of ineligibility.—Any person applying for medical assistance only under the Aid to the Aged, Blind, or Disabled categories who has, either by himself or through a legal representative, conveyed, transferred or disposed of any real property within one year prior to the date of making application and any person applying for or receiving medical assistance only under the Aid to the Aged, Blind, or Disabled categories who, either by himself or through a legal representative, conveys, transfers or disposes of any real property during the application process or during any period of continuing eligibility without receiving consideration equivalent to the latest tax value of said property, as ascertained according to Subchapter II of Chapter 105 of the General Statutes, shall, unless shown to the contrary, be presumed to have made such transfer, conveyance or disposition with the intent to qualify or continue to qualify for medical assistance benefits and shall be ineligible to receive such benefits thereafter in accordance with the following schedule or until an amount equivalent to the latest tax value of such property shall have been expended by or in behalf of such person for his maintenance need, including needs for medical care, whichever is sooner:

1. Property tax value of ten thousand dollars ($10,000) or more - three-year period of ineligibility from date of transfer;
2. Property tax value of less than ten thousand dollars ($10,000) but more than five thousand dollars ($5,000) - two-year period of ineligibility from date of transfer;
3. Property tax value of five thousand dollars ($5,000) or less but more than one thousand dollars ($1,000) - one-year period of ineligibility from date of transfer.

Any medical assistance applicant or recipient shall have a right to appeal, in accordance with the provisions of G.S. 108A-120, the decision denying or terminating such assistance.

The provisions of this section pertain to persons applying, or on whose behalf application is made, for medical assistance only under the Aid to the Aged, Blind, or Disabled categories.

“§ 108A-81. Acceptance of medical assistance constitutes assignment to the State of right to third party benefits; recovery procedure.—(a) Notwithstanding any other provisions of the law, by accepting medical assistance, the recipient shall be deemed to have made an assignment to the State of the right to third party benefits, contractual or otherwise, to which he may be entitled.

It shall be the responsibility of the county attorney of the county from which the medical assistance benefits are received or an attorney retained by that
county and/or the State to enforce this subsection, and said attorney shall be
compensated for his services in accordance with the attorneys' fees arrangements
approved by the Department of Human Resources.

(b) The responsible State agency will establish a third party resources
collection unit that is adequate to assure maximum collection of third party
resources.

"§ 108A-82. Protection of patient property.—(a) It shall be unlawful for any
person:

(1) To willfully commingle or cause or solicit the commingling of the
personal funds or moneys of a recipient resident of a provider health
care facility with the funds or moneys of such facility; or

(2) To willfully embezzle, convert, or appropriate or cause or solicit the
embezzlement, conversion or appropriation of recipient personal funds
or property to his own use or to the use of any provider or other person
or entity.

(b) A violation of subdivision (a)(1) of this section shall be a misdemeanor
punishable by a fine of not more than two thousand dollars ($2,000) or
imprisonment for not more than two years, or both, in the discretion of the
court. A violation of subdivision (a)(2) of this section shall be a Class I felony.

(c) For purposes of this section:

(1) 'Health care facility' shall include skilled nursing facilities,
intermediate care facilities, rest homes, or any other residential health
care facility; and

(2) 'Person' includes any natural person, association, consortium,
corporation, body politic, partnership, or other group, entity or
organization; and

(3) 'Recipient' shall include current resident recipients, deceased recipients
and recipients who no longer reside at such facility.

"§ 108A-83. Financial responsibility of spouse for long-term care patient.—
The income and financial resources of the spouse of a person who is admitted
after June 30, 1979, as a long-term care patient in a certified public or private
intermediate care or skilled nursing facility shall be counted only for 180
consecutive days in determining eligibility for that person for medical
assistance under this Part and Title XIX of the Social Security Act.

"§ 108A-84. Therapeutic leave for medical assistance patients.—Patients at
an intermediate care facility or skilled nursing facility may take up to 18 days of
therapeutic leave in any 12-month period without the facility losing
reimbursement under the medical assistance program.

"§ 108A-85. Medical assistance provider fraud.—(a) It shall be unlawful for
any provider of medical assistance under this Part to knowingly and willfully
make or cause to be made any false statement or representation of a material
fact:

(1) In any application for payment under this Part, or for use in
determining entitlement to such payment; or

(2) With respect to the conditions or operation of a provider or facility in
order that such provider or facility may qualify or remain qualified to
provide assistance under this Part.

(b) It shall be unlawful for any provider of medical assistance to knowingly
and willfully conceal or fail to disclose any fact or event affecting:

(1) His initial or continued entitlement to payment under this Part; or
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(2) The amount of payment to which such person is or may be entitled.
(c) Any person who violates a provision of this section shall be guilty of a Class I felony.
(d) ‘Provider’ shall include any person who provides goods or services under this Part and any other person acting as an employee, representative or agent of such person.

§ 108A-86. Medical assistance recipient fraud.—(a) It shall be unlawful for any person to knowingly and willfully and with intent to defraud make or cause to be made a false statement or representation of a material fact in an application for assistance under this Part, or intended for use in determining entitlement to such assistance.
(b) It shall be unlawful for any applicant, recipient or person acting on behalf of such applicant or recipient to knowingly and willfully and with intent to defraud, conceal or fail to disclose any condition, fact or event affecting such applicant’s or recipient’s initial or continued entitlement to receive assistance under this Part.
(c) (i) A person who violates a provision of this section shall be guilty of a Class I felony if the value of the assistance wrongfully obtained is more than four hundred dollars ($400.00).
(ii) A person who violates a provision of this section shall be guilty of a misdemeanor if the value of the assistance wrongfully obtained is four hundred dollars ($400.00) or less, and shall be punished by a term of imprisonment of not more than two years or a fine of not more than five hundred dollars ($500.00), or both, at the discretion of the court.
(d) For purposes of this section the word ‘person’ includes any natural person, association, consortium, corporation, body politic, partnership, or other group, entity or organization.


ARTICLE 3.

Social Services Programs.

§ 108A-100. Authorization of social services programs.—The Department is hereby authorized to accept all grants-in-aid available for programs of social services under the Social Security Act, other federal laws or regulations, State appropriations and other non-federal sources. The Department is designated as the single State agency responsible for administering or supervising the administration of such programs. It is the intent of this Article that programs of social services be administered so that the State and its citizens may benefit fully from any grants-in-aid.

§ 108A-101. Social services checks payable to decedents.—In the event of the death of a recipient of a cash payment service, any check or checks payable to such recipient but not endorsed prior to such recipient’s death shall be returned to the issuing agency, made void, and reissued to the provider of the service.

§ 108A-102. Services Appeals and Confidentiality of Records.—The provisions of Article 4 on public assistance and social services appeals and confidentiality of records shall be applicable to social services programs authorized under this Article.


ARTICLE 4.

Public Assistance and Social Services

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“Appeals and Access to Records.

§ 108A-120. Appeals.—(a) A public assistance applicant or recipient shall have a right to appeal the decision of the county board of social services, county department of social services, or the board of county commissioners granting, denying, terminating, or modifying assistance, or the failure of the county board of social services or county department of social services to act within a reasonable time under the rules and regulations of the Social Services Commission or the Department. Each applicant or recipient shall be notified in writing of his right to appeal upon denial of his application for assistance and at the time of any subsequent action on his case.

(b) In cases involving termination or modification of assistance, no action shall become effective until 10 work days after notice of this action and of the right to appeal is mailed to the recipient.

(c) The notice of action and the right to appeal shall comply with all applicable federal and State law and regulations; provided, such notice shall, at a minimum contain a clear statement of:

(1) The action which was or is to be taken;
(2) The reasons for which this action was or is to be taken;
(3) The regulations supporting this action;
(4) The applicant’s or recipient’s right to both a local and State level hearing, or to a State level hearing in the case of the food stamp program, on the decision to take this action and the method for obtaining these hearings;
(5) The right to be represented at the hearings by a personal representative, including an attorney obtained at the applicant’s or recipient’s expense;
(6) In cases involving termination or modification of assistance, the recipient’s right upon timely request to continue receiving assistance at the present level pending an appeal hearing and decision on that hearing.

An applicant or recipient may give notice of appeal by written or oral statement to the county department of social services, which shall record such notice by completing a form developed by the Department.

Such notice of appeal must be given within 60 days from the date of the action, or 90 days from the date of notification in the case of the food stamp program. Failure to give timely notice of appeal constitutes a waiver of the right to a hearing. However, it shall not affect the right to reapply for benefits.

(d) If there is such timely appeal, in the first instance the hearing shall consist of a local appeal hearing before the county director or a designated representative of the county director, provided whoever hears the local appeal shall not have been involved directly in the initial decision giving rise to the appeal. In cases involving termination or modification of assistance, the recipient shall continue to receive assistance at the present level pending the local appeal hearing decision, provided the recipient requests a hearing on or before the effective date of the termination or modification of assistance.

(e) The local appeal hearing shall be held not more than five days after the request for it is received. The recipient may, for good cause shown as defined by rule or regulation of the Social Services Commission or the Department, petition the county department of social services, in writing, for a delay, but in
no event shall the local appeal hearing be held more than 15 days after the receipt of the request for hearing. At the local appeal hearing:

(1) The appellant and the county department may be represented by personal representatives, including attorneys, obtained at their expense.

(2) The appellant or his personal representative and the county department shall present such sworn evidence and law or regulations as bear upon the case. The hearing need not be recorded or transcribed, but the director or his representative shall summarize in writing the substance of the hearing.

(3) The appellant or his personal representative and the county department may cross-examine witnesses and present closing arguments summarizing their views of the case and the law.

(4) Prior to and during the hearing, the appellant shall have adequate opportunity to examine the contents of his case file and all documents and records which the county department of social services intends to use at the hearing.

(f) The director or his designated representative shall make the decision based upon the evidence presented at the hearing and all applicable regulations, and shall prepare a written statement of his decision citing the regulations and evidence to support it. This written statement of the decision will be served by certified mail on the appellant within five days of the local appeal hearing. If the decision terminating or modifying the appellant’s benefits is affirmed, the assistance shall be terminated or modified, not earlier than the date the decision is mailed, and any assistance received during the time of the appeal is subject to recovery.

(g) If the appellant is dissatisfied with the decision of the local appeal hearing, he may within 15 days of the mailing notification of the decision take a further appeal to the Department. However, assistance may not be received pending this further appeal. Failure to give timely notice of further appeal constitutes a waiver of the right to a hearing before an official of the Department, but shall not affect the right to reapply for benefits.

(h) Subsections (d)-(g) of this section shall not apply to the food stamp program. The first appeal for a food stamp recipient or his representative shall be to the Department. Pending hearing, the recipient’s assistance shall be continued at the present level upon timely request.

(i) If there is an appeal from the local appeal hearing decision, or from a food stamp recipient or his representative where there is no local hearing, the county director shall notify the Department according to its rules and regulations. The Department shall designate a hearing officer who shall promptly hold a de novo administrative hearing in the county after giving reasonable notice of the time and place of such hearing to the appellant and the county department of social services. Such hearing shall be conducted according to applicable federal law and regulations and Article 3, Chapter 150A, of the General Statutes of North Carolina; provided the Department shall adopt rules and regulations to ensure the following:

(1) Prior to and during the hearing, the appellant shall have adequate opportunity to examine the contents of his case file and all documents and records which the county department of social services intends to use at the hearing.
(2) At the appeal hearing, the appellant and personnel of the county department of social services may present such sworn evidence, law and regulations as bear upon the case.

(3) The appellant and county department shall have the right to be represented by the person of his choice, including an attorney obtained at his own expense.

(4) The appellant and county department shall have the right to cross-examine the other party as well as make a closing argument summarizing his view of the case and the law.

(5) The appeal hearing shall be recorded; however, no transcript will be prepared unless a petition for judicial review is filed pursuant to subsection (k) herein, in which case, the transcript will be made a part of the official record. In the absence of the filing of a petition for a judicial review, the recording of the appeal hearing may be erased or otherwise destroyed 180 days after the final decision is mailed.

(6) Notwithstanding G.S. 150A-28 or any other provision of State law, discovery shall be no more extensive or formal than that required by federal law and regulations applicable to such hearings.

(j) After the administrative hearing, the hearing officer shall prepare a proposal for decision, citing pertinent law, regulations, and evidence, which shall be served upon the appellant and the county department of social services or their personal representatives. The appellant and the county department of social services shall have the opportunity to present oral and written arguments in opposition to or in support of the proposal for decision to the designated official of the Department who is to make the final decision. The final decision shall be based on, conform to, and set forth in detail the relevant evidence, pertinent State and federal law and regulations, and matters officially noticed. The decision shall be rendered not more than 90 days, or 45 days in the case of the food stamp program, from the date of request for the hearing, unless the hearing was delayed at the request of the appellant. If the hearing was delayed at the appellant's request, the decision may only be delayed for the length of time the appellant requested a delay. The final decision shall be served upon the appellant and upon the county department of social services by certified mail, with a copy furnished to either party's attorney of record. In the absence of a petition for judicial review filed pursuant to subsection (k) herein, the final decision shall be binding upon the appellant, the county department of social services, the county board of social services, and the board of county commissioners.

(k) Any appellant or county board of social services or board of county commissioners in the case of the food stamp program who is dissatisfied with the final decision of the Department may file, within 30 days of the receipt of notice of such decision, a petition for judicial review in Superior Court of the county from which the case arose. The hearing shall be conducted according to the provisions of Article 4, Chapter 150A, of the North Carolina General Statutes. Notwithstanding the foregoing provisions, the court may take testimony and examine into the facts of the case to determine whether the appellant is entitled to public assistance or social services under federal and State law, and under the rules and regulations of the Social Services Commission and Department. Furthermore, the court shall set the matter for hearing within 30 days after the receipt of a petition for review and after
reasonable written notice to the Department, the county board of social services, the board of county commissioners, and the appellant.

(l) In the event of conflict between federal law or regulations and State law or regulations, the federal law or regulations shall control.

§ 108A-121. Confidentiality of records.—(a) Except as provided in (b) below, it shall be unlawful for any person to obtain, disclose or use, or to authorize, permit, or acquiesce in the use of any list of names or other information concerning persons applying for or receiving public assistance or social services that may be directly or indirectly derived from the records, files or communications of the Department or the county boards of social services, or county departments of social services or acquired in the course of performing official duties except for the purposes directly connected with the administration of the programs of public assistance and social services in accordance with federal rules and regulations and the rules and regulations of the Social Services Commission or the Department.

(b) The Department shall furnish a copy of the recipient check register monthly to each county auditor showing a complete list of all recipients of Aid To Families with Dependent Children and State-County Special Assistance for Adults, their addresses, and the amounts of the monthly grants. This register shall be a public record open to public inspection during the regular office hours of the county auditor, but said register or the information contained therein may not be used for any commercial or political purpose. Any violation of this section shall constitute a misdemeanor.

(c) Any listing of recipients of benefits under any public assistance or social services program compiled by or used for official purposes by a county board of social services or a county department of social services shall not be used as a mailing list for political purposes. This prohibition shall apply to any list of recipients of benefits of any federal, State, county or mixed public assistance or social services program. Further, this prohibition shall apply to the use of such listing by any person, organization, corporation, or business, including but not limited to public officers or employees of federal, State, county, or other local governments, as a mailing list for political purposes. Any violation of this section shall be punishable as a general misdemeanor.


“ARTICLE 5.

“Financing of Programs of Public Assistance and Social Services.

§ 108A-140. Financial transactions between the State and counties.—The Secretary shall have the power to promulgate rules and regulations establishing procedures for the counties to follow in financing programs of public assistance and social services under Article 2 and Article 3.

§ 108A-141. Allocation of nonfederal shares.—(a) The nonfederal share of the annual cost of each public assistance and social services program and related administrative costs may be divided between the State and counties as determined by the General Assembly and in a manner consistent with federal laws and regulations.

(b) The nonfederal share of the annual cost of public assistance and social services programs and related administrative costs provided to Indians living on federal reservations held in trust by the United States on their behalf shall be borne entirely by the State.
§ 108A-142. Determination of State and county financial participation.—Before February 15 of each year, the Secretary shall notify the director of social services of each county of the amount of State and federal monies estimated to be available, as best can be determined, to that county for programs of public assistance, social services and related administrative costs, as well as the percentage of county participation expected to be required for the budget for the succeeding fiscal year. In odd-numbered years, in making such notification, the Secretary shall notify the counties of any changes in funding levels, formulas, or programs relating to public assistance proposed by the Governor to the General Assembly in the proposed budget and budget report submitted under the Executive Budget Act. Counties shall be notified of additional changes in the proposed budget of the Governor and the Advisory Budget Commission that are made by the General Assembly or the United States Congress subsequent to the February 15 estimates.

§ 108A-143. State Public Assistance Contingency Loan Program.—(a) The Department is authorized and empowered to establish a program known as the ‘State Public Assistance Contingency Loan Program’. The purpose of this program shall be to make loans available to counties whose actual expenditures, excluding related administrative costs, exceed the estimates for public assistance programs only provided by the Department under G.S. 108A-142.

(b) Loans shall be made to the counties at any time during the fiscal year by the Department, when satisfied of the county’s need for such loan under this Part.

(c) A loan provided under this section shall be used by a county only to pay the county share of public assistance costs that exceeds the estimate provided by the Department under G.S. 108A-142 in order to sustain an adequate program of public assistance in that county.

(d) Any amount borrowed by a county from the ‘State Public Assistance Contingency Fund’ during one fiscal year shall be repaid to said fund within the next two fiscal years.

§ 108A-144. Counties to levy taxes.—(a) Whenever the Secretary or his representative assigns a portion of the nonfederal share of public assistance expenses to the counties under the rules and regulations of the Social Services Commission or the Department, the board of commissioners of each county shall levy and collect the taxes required to meet the county’s share of such expenses.

(b) The board of county commissioners may combine any or all of the separate special taxes for each program of public assistance and for the related administrative costs of such programs in place of levying separate special taxes for each item. This consolidated tax shall be sufficient, when combined with other funds available for use for public assistance expenses from any other source of county income and revenue (including borrowing in anticipation of collection of taxes), to meet the financial requirements of public assistance programs, and the related administrative costs of each program. The appropriations and expenditures for each of the several programs and for related administrative costs shall be separately stated and accounted for.

§ 108A-145. Appropriations not to revert.—County appropriations for public assistance expenses or related administrative costs shall not lapse or revert, and the unexpended balances may be considered in making further public assistance or administrative appropriations. At any time during the fiscal year, any county
may transfer county funds from one public assistance program to another and
between programs of public assistance and administration if such action appears
to be both necessary and feasible, provided the county secures the approval of
the Secretary or his representative.

“§ 108A-146. State Public Assistance Equalization Program.—The Secretary
is authorized and directed to reserve from State appropriations for the
programs of public assistance an amount found to be necessary to equalize the
burden of taxation in the counties of the State, and to equalize the benefits
received by the recipients of public assistance. This amount shall be expended
and disbursed solely for the use and benefit of persons eligible for assistance.
The amount reserved shall be distributed among the counties according to their
needs under a formula approved by the Social Services Commission so as to
produce a fair and just distribution.


“ARTICLE 6.

“Protection of the Abused, Neglected or Exploited Disabled
Adult Act.

“§ 108A-150. Short title.—This Article may be cited as the Protection of the
Abused, Neglected, or Exploited Disabled Adult Act.

“§ 108A-151. Legislative intent and purpose.—Determined to protect the
increasing number of disabled adults in North Carolina who are abused,
neglected, or exploited, the General Assembly enacts this Article to provide
protective services for such persons.

“§ 108A-152. Definitions.—(a) The word ‘abuse’ means the willful infliction
of physical pain, injury or mental anguish, unreasonable confinement, or the
willful deprivation by a caretaker of services which are necessary to maintain
mental and physical health.

(b) The word ‘caretaker’ shall mean an individual who has the responsibility
for the care of the disabled adult as a result of family relationship or who has
assumed the responsibility for the care of the disabled adult voluntarily or by
contract.

(c) The word ‘director’ shall mean the director of the county department of
social services or his representative in the county in which the person resides or
is present.

(d) The words ‘disabled adult’ shall mean any person 18 years of age or over
or any lawfully emancipated minor who is present in the State of North
Carolina and who is physically or mentally incapacitated due to mental
retardation, cerebral palsy, epilepsy or autism; organic brain damage caused by
advanced age or other physical degeneration in connection therewith; or due to
conditions incurred at any age which are the result of accident, organic brain
damage, mental or physical illness, or continued consumption or absorption of
substances.

(e) A ‘disabled adult’ shall be ‘in need of protective services’ if that person,
due to his physical or mental incapacity, is unable to perform or obtain for
himself essential services and if that person is without able, responsible, and
willing persons to perform or obtain for him essential services.

(f) The words ‘district court’ shall mean the judge of that court.

(g) The word ‘emergency’ refers to a situation where (i) the disabled adult is
in substantial danger of death or irreparable harm if protective services are not
provided immediately, (ii) the disabled adult is unable to consent to services,
(iii) no responsible, able, or willing caretaker is available to consent to emergency services, and (iv) there is insufficient time to utilize procedure provided in G.S. 108A-156.

(h) The words 'emergency services' refer to those services necessary to maintain the person’s vital functions and without which there is reasonable belief that the person would suffer irreparable harm or death. This may include taking physical custody of the disabled person.

(i) The words 'essential services' shall refer to those social, medical, psychiatric, psychological or legal services necessary to safeguard the disabled adult's rights and resources and to maintain the physical or mental well-being of the individual. These services shall include but not be limited to the provision of medical care for physical and mental health needs, assistance in personal hygiene, food, clothing, adequately heated and ventilated shelter, protection from health and safety hazards, protection from physical mistreatment, and protection from exploitation. The words 'essential services' shall not include taking the person into physical custody without his consent except as provided for in G.S. 108A-157 and in Chapter 122 of the General Statutes.

(j) The word 'exploitation' means the illegal or improper use of a disabled adult or his resources for another's profit or advantage.

(k) The word 'indigent' shall mean indigent as defined in G.S. 7A-450.

(l) The words 'lacks the capacity to consent' shall mean lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his person, including but not limited to provisions for health or mental health care, food, clothing, or shelter, because of physical or mental incapacity. This may be reasonably determined by the director or he may seek a physician’s or psychologist’s assistance in making this determination.

(m) The word 'neglect' refers to a disabled adult who is either living alone and not able to provide for himself the services which are necessary to maintain his mental or physical health or is not receiving the services from his caretaker. A person is not receiving services from his caretaker if, among other things and not by way of limitation, he is a resident of one of the State-owned hospitals for the mentally ill, centers for the mentally retarded or North Carolina Special Care Center he is, in the opinion of the professional staff of that hospital or center, mentally incompetent to give his consent to medical treatment, he has no legal guardian appointed pursuant to Chapter 33, Chapter 35, or guardian as defined in G.S. 122-36(n), and he needs medical treatment.

(n) The words 'protective services' shall mean services provided by the State or other government or private organizations or individuals which are necessary to protect the disabled adult from abuse, neglect, or exploitation. They shall consist of evaluation of the need for service and mobilization of essential services on behalf of the disabled adult.

“§ 108A-153. Duty to report; content of report; immunity.—(a) Any person having reasonable cause to believe that a disabled adult is in need of protective services shall report such information to the director.

(b) The report may be made orally or in writing. The report shall include the name and address of the disabled adult; the name and address of the disabled adult's caretaker; the age of the disabled adult; the nature and extent of the disabled adult's injury or condition resulting from abuse or neglect; and other pertinent information.
(c) Anyone who makes a report pursuant to this statute, who testifies in any judicial proceeding arising from the report, or who participates in a required evaluation shall be immune from any civil or criminal liability on account of such report or testimony or participation, unless such person acted in bad faith or with a malicious purpose.

"§ 108A-154. Duty of director upon receiving report.—(a) Any director receiving a report that a disabled adult is in need of protective services shall make a prompt and thorough evaluation to determine whether the disabled adult is in need of protective services and what services are needed. The evaluation shall include a visit to the person and consultation with others having knowledge of the facts of the particular case. After completing the evaluation the director shall make a written report of the case indicating whether he believes protective services are needed and shall notify the individual making the report of his determination as to whether the disabled adult needs protective services.

(b) The staff and physicians of local health departments, mental health clinics, and other public or private agencies shall cooperate fully with the director in the performance of his duties. These duties include immediate accessible evaluations and in-home evaluations where the director deems this necessary.

(c) The director may contract with an agency or private physician for the purpose of providing immediate accessible medical evaluations in the location that the director deems most appropriate.

"§ 108A-155. Provision of protective services with the consent of the person; withdrawal of consent; caretaker refusal.—(a) If the director determines that a disabled adult is in need of protective services, he shall immediately provide or arrange for the provision of protective services, provided that the disabled adult consents.

(b) When a caretaker of a disabled adult who consents to the receipt of protective services refuses to allow the provision of such services to the disabled adult, the director may petition the district court for an order enjoining the caretaker from interfering with the provision of protective services to the disabled adult. The petition must allege specific facts sufficient to show that the disabled adult is in need of protective services and consents to the receipt of protective services and that the caretaker refuses to allow the provision of such services. If the judge finds by clear, cogent, and convincing evidence that the disabled adult is in need of protective services and consents to the receipt of protective services and that the caretaker refuses to allow the provision of such services, he may issue an order enjoining the caretaker from interfering with the provision of protective services to the disabled adult.

(c) If a disabled adult does not consent to the receipt of protective services, or if he withdraws his consent, the services shall not be provided.

"§ 108A-156. Provision of protective services to disabled adults who lack the capacity to consent; hearing, findings, etc.—(a) If the director reasonably determines that a disabled adult is being abused, neglected, or exploited and lacks capacity to consent to protective services, then the director may petition the district court for an order authorizing the provision of protective services. The petition must allege specific facts sufficient to show that the disabled adult is in need of protective services and lacks capacity to consent to them.
(b) The court shall set the case for hearing within 14 days after the filing of the petition. The disabled adult must receive at least five days' notice of the hearing. He has the right to be present and represented by counsel at the hearing. If the person, in the determination of the judge, lacks the capacity to waive the right to counsel, then the court shall appoint a guardian ad litem pursuant to G.S. 1A-1, Rule 17. If the person is indigent, the cost of representation shall be borne by the State.

(c) If, at the hearing, the judge finds by clear, cogent, and convincing evidence that the disabled adult is in need of protective services and lacks capacity to consent to protective services, he may issue an order authorizing the provision of protective services. This order may include the designation of an individual or organization to be responsible for the performing or obtaining of essential services on behalf of the disabled adult or otherwise consenting to protective services in his behalf. Within 60 days from the appointment of such an individual or organization, the court will conduct a review to determine if a petition should be initiated in accordance with Chapter 35, Article 1A, or G.S. 33-7, as appropriate; for good cause shown, the court may extend the 60 day period for an additional 60 days, at the end of which it shall conduct a review to determine if a petition should be initiated in accordance with Chapter 35, Article 1A, or G.S. 33-7, as appropriate. No disabled adult may be committed to a mental health facility under this Article.

(d) A determination by the court that a person lacks the capacity to consent to protective services under the provisions of this Chapter shall in no way affect incompetency proceedings as set forth in Chapters 33, 35 or 122 of the General Statutes of North Carolina, or any other proceedings, and incompetency proceedings as set forth in Chapters 33, 35, or 122 shall have no conclusive effect upon the question of capacity to consent to protective services as set forth in this Chapter.

“§ 108A-157. Emergency intervention; findings by court; limitations; contents of petition; notice of petition; court authorized entry of premises; immunity of petitioner.—(a) Upon petition by the director, a court may order the provision of emergency services to a disabled adult after finding that there is reasonable cause to believe that:

1. A disabled adult lacks capacity to consent and that he is in need of protective service;

2. An emergency exists; and

3. No other person authorized by law or order to give consent for the person is available and willing to arrange for emergency services.

(b) The court shall order only such emergency services as are necessary to remove the conditions creating the emergency. In the event that such services will be needed for more than 14 days, the director shall petition the court in accordance with G.S. 108A-156.

(c) The petition for emergency services shall set forth the name, address, and authority of the petitioner; the name, age and residence of the disabled adult; the nature of the emergency; the nature of the disability if determinable; the proposed emergency services; the petitioner’s reasonable belief as to the existence of the conditions set forth in subsection (a) above; and facts showing petitioner’s attempts to obtain the disabled adult’s consent to the services.

(d) Notice of the filing of such petition, and other relevant information, including the factual basis of the belief that emergency services are needed and
a description of the exact services to be rendered, shall be given to the person, to his spouse, or if none, to his adult children or next of kin, to his guardian, if any. Such notice shall be given at least 24 hours prior to the hearing of the petition for emergency intervention; provided, however, that the court may issue immediate emergency order ex parte upon finding as fact (i) that the conditions specified in G.S. 108A-157(a) exist; (ii) that there is likelihood that the disabled adult may suffer irreparable injury or death if such order be delayed; and (iii) that reasonable attempts have been made to locate interested parties and secure from them such services or their consent to petitioner's provision of such service; and such order shall contain a show-cause notice to each person upon whom served directing such person to appear immediately or at any time within 20 days thereafter and show cause, if any exist, for the dissolution or modification of the said order, otherwise same to remain in effect; and copies of the said order together with such other appropriate notices as the court may direct shall be issued and served upon all of the interested parties designated in the first sentence of this subsection.

(e) Where it is necessary to enter a premises without the disabled adult's consent after obtaining a court order in compliance with subsection (a) above, the representative of the petitioner shall do so.

(f)(1) Upon petition by the director, a court may order that:
   (i) The disabled adult's financial records be made available at a certain day and time for inspection by the director or his designated agent; and
   (ii) The disabled adult's financial assets be frozen and not withdrawn, spent or transferred without prior order of the court.
(2) Such an order shall not issue unless the court first finds that there is reasonable cause to believe that:
   (i) A disabled adult lacks the capacity to consent and that he is in need of protective services;
   (ii) The disabled adult is being financially exploited by his caretaker; and
   (iii) No other person is able or willing to arrange for protective services.
(3) Provided, before any such inspection is done, the caretaker and every financial institution involved shall be given notice and a reasonable opportunity to appear and show good cause why this inspection should not be done. And, provided further, that any order freezing assets shall expire ten days after such inspection is completed, unless the court for good cause shown, extends it.

(g) No petitioner shall be held liable in any action brought by the disabled adult if the petitioner acted in good faith.

"§ 108A-158. Motion in the cause.—Notwithstanding any finding by the court of lack of capacity of the disabled adult to consent, the disabled adult or the individual or organization designated to be responsible for the disabled adult shall have the right to bring a motion in the cause for review of any order issued pursuant to this Article.

"§ 108A-159. Payment for essential services.—At the time the director, in accordance with the provisions of G.S. 108A-154 makes an evaluation of the case reported, then it shall be determined, according to regulations set by the Social Services Commission, whether the individual is financially capable of paying for the essential services. If he is, he shall make reimbursement for the
costs of providing the needed essential services. If it is determined that he is not financially capable of paying for such essential services, they shall be provided at no cost to the recipient of the services.

"§ 108A-160. Reporting abuse.—Upon finding evidence indicating that a person has abused, neglected, or exploited a disabled adult, the director shall notify the district attorney.

"§ 108A-161. Funding of protective services.—Any funds appropriated by counties for home health care, boarding home, nursing home, emergency assistance, medical or psychiatric evaluations, and other protective services and for the development and improvement of a system of protective services, including additional staff, may be matched by State and federal funds. Such funds shall be utilized by the county department of social services for the benefit of disabled adults in need of protective services.

"§ 108A-162. Adoption of standards.—The Department and the administrative office of the court shall adopt standards and other procedures and guidelines with forms to insure the effective implementation of the provisions of this Article."

Sec. 2. Article 3 of Chapter 108 of the General Statutes is hereby recodified as a new Chapter 131C of the General Statutes.

Sec. 3. Article 6 of Chapter 108 of the General Statutes is hereby recodified as a new Part 26 of Article 7 of Chapter 143B of the General Statutes.


Sec. 5. G.S. 143B-153 is amended by renumbering the existing subsection (3) to be number (4), renumbering all subsequent subsections, and substituting therefor a new subsection (3) to read as follows:

"(3) The Social Services Commission shall have the power and duty to establish standards and adopt rules and regulations:
   a. For social services programs established by federal legislation and by Article 3 of G.S. Chapter 108A;
   b. For implementation of Title XX of the Social Security Act by promulgating rules and regulations in the following areas:
      1. Eligibility for all services established under a Comprehensive Annual Services Plan, as required by federal law;
      2. Standards to implement all services established under the Comprehensive Annual Services Plan;
      3. Maximum rates of payment for provision of social services;
      4. Fees for services to be paid by recipients of social services;
      5. Designation of certain mandated services, from among the services established by the Secretary below, which shall be provided in each county of the State; and
   6. Title XX services for the blind, after consultation with the Commission for the Blind.

Provided, that the Secretary is authorized to promulgate all other rules in at least the following areas:
   1. Establishment, identification, and definition of all services offered under the Comprehensive Annual Services Plan;
   2. Policies governing the allocation, budgeting, and expenditures of funds administered by the Department;
3. Contracting for and purchasing services; and
4. Monitoring for effectiveness and compliance with State and federal law and regulations.”

Sec. 6. G.S. 48-38 is hereby amended by rewriting the first sentence thereof to read as follows:

“No person, agency, association, corporation, society or other organization, except a licensed child placing agency as defined in G.S. 48-2, a county department of social services, or the Department of Human Resources, shall publish, transmit, broadcast, or otherwise distribute any advertisement of any type whatsoever which solicits the receiving or placing of children for adoption, or which solicits the custody of children.”

Sec. 7. Article 9 of Chapter 110 of the General Statutes is hereby amended by adding a new section to read as follows:

“§ 110-136.1. Assignment of Wages for Child Support.—Pursuant to G.S. 50-13.4(f)(1), the court may require the responsible parent to execute an assignment of wages, salary, or other income due or to become due whenever his employer’s voluntary written acceptance of the wage assignment under G.S. 95-31 is filed with the court. Such acceptance remains effective until the employer files an express written revocation with the court.”

Sec. 8. G.S. 110-132(a) as it appears in the 1979 Cumulative Supplement to Volume 3A of the General Statutes is hereby amended by deleting all words coming after the word “court” in line 8 and substituting therefor the following:

“and a written agreement to support said child by periodic payments, which may include provision for reimbursement for medical expenses incident to the pregnancy and the birth of the child, accrued maintenance and reasonable expense of prosecution of the paternity action, when acknowledged as provided herein, filed with, and approved by a judge of the district court at any time, shall have the same force and effect as an order of support entered by that court, and shall be enforceable and subject to modification in the same manner as is provided by law for orders of the court in such cases. Such written affirmations, acknowledgements and agreements to support shall be sworn to before a certifying officer or notary public or the equivalent or corresponding person of the state, territory, or foreign country where the affirmation, acknowledgement, or agreement is made, and shall be binding on the person executing the same whether he is an adult or a minor. Such mother shall not be excused from making such affirmation on the grounds that it may tend to disgrace or incriminate her; nor shall she thereafter be prosecuted for any criminal act involved in the conception of the child as to whose paternity she makes affirmation.”

Sec. 9. Severability. If any provision of this act or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Sec. 10. The provisions of G.S. Chapter 108 shall remain in full force and effect from the date of ratification of this act until October 1, 1981. This act shall not affect any litigation pending under the existing provisions of Chapter 108.

Sec. 11. This act shall become effective October 1, 1981.
In the General Assembly read three times and ratified, this the 27th day of April, 1981.

S. B. 205  
CHAPTER 276
AN ACT TO CLARIFY THE AMOUNT OF WEEKLY BENEFITS UNDER THE WORKERS' COMPENSATION ACT.

The General Assembly of North Carolina enacts:

Section 1. The first paragraphs of G.S. 97-30, G.S. 97-38, G.S. 97-61.5(b), and the third paragraph of G.S. 97-61.6 are amended by striking "eighty dollars ($80.00)" therefrom and inserting in lieu thereof "the amount established annually to be effective October 1 as provided in G.S. 97-29".

Sec. 2. The first paragraph of G.S. 97-29 is amended by striking "eighty dollars ($80.00)" therefrom and inserting in lieu thereof "the amount established annually to be effective October 1 as provided herein."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of April, 1981.

H. B. 425  
CHAPTER 277
AN ACT TO MODIFY THE POWERS AND DUTIES OF CABARRUS MEMORIAL HOSPITAL.

The General Assembly of North Carolina enacts:

Section 1. Section 5 of Chapter 307 of the 1935 Public-Local Laws as amended by Chapter 1154, Session Laws of 1977 (Second Session 1978) is amended by rewriting the fourth sentence to read:

"The Cabarrus County Medical Society and the Medical Staff of the hospital may each nominate for appointment by the Board of Trustees two practicing physicians to serve as honorary and advisory members of said executive committee; such advisory members shall serve without voting power."

Sec. 2. Section 6 of Chapter 307 of the 1935 Public-Local Laws is amended by:

(1) The deletion of the present second and third sentences of such section;
(2) Rewriting the present sixth sentence of such section to read:

"They shall have the exclusive control of the expenditure of all moneys collected to the credit of the hospital fund, and the purchase of site or sites, the purchase or construction of any hospital building or buildings, and of the supervision, care and custody of the grounds, rooms or buildings purchased, constructed, leased, or set apart for that purpose: Provided that all moneys received for the credit of such hospital shall be deposited in a special fund for the hospital and shall be paid out only upon warrants or checks drawn by a proper officer designated by the executive committee upon due authorization of such committee."

(3) Rewriting the present seventh sentence to read:

"Said executive committee shall have the power to appoint a chief executive officer and necessary assistants, and to fix their compensation and shall in general carry out the spirit and intent of this act in establishing and maintaining a county general acute care hospital."; and

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(4) Adding a proviso to the final sentence in such section to read as follows:

"Provided, that such hospital may render care and services to members of the Board of Trustees and to companies in which such members may have an interest on those terms and conditions as such care and services are otherwise made available."

Sec. 3. Section 9 of Chapter 307 of the 1935 Public-Local Laws is amended by the addition of the following sentence:

"Such rights and powers shall include, without limitation, the authority to sell real and personal property; to establish additional locations to render medical services; to establish trusts or foundations to administer hospital funds; to retain securities donated to such hospital notwithstanding the provisions of Chapter 159 of the General Statutes relating to permissible investments; and to enter into private long term leases or subleases of hospital owned or leased real property for periods not exceeding 10 years without notice or other compliance with Chapter 160A of the General Statutes."

Sec. 4. Section 10 of Chapter 307 of the 1935 Public-Local Laws as amended by Chapter 421, Public-Local Laws of 1935, is hereby rewritten to read:

"Sec. 10. The executive committee of such hospital shall determine the conditions under which the privileges of practice may be available and shall promulgate rules and regulations governing the conduct of such practice at said hospital."

Sec. 5. Section 12 of Chapter 307 of the 1935 Public-Local Laws is repealed.

Sec. 6. Section 13 of Chapter 307 of the 1935 Public-Local Laws is rewritten to read:

"Sec. 12. The executive committee shall have the power to determine rates to be charged for hospital services, to evaluate and approve or reject claims for charity services and to generally establish collection policies and practices for the hospital."

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of April, 1981.

S. B. 226

CHAPTER 278

AN ACT TO PROVIDE FOR THE DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT TO CHARGE ADMISSION FEES TO THE NORTH CAROLINA ZOOLOGICAL PARK.

The General Assembly of North Carolina enacts:

Section 1. The existing language of G.S. 143-177.3 is redesignated as subsection (a) and a new subsection (b) is added to read:

"(b) The Council with the approval of the Secretary of Natural Resources and Community Development is authorized to establish and set admission fees which are reasonable and consistent with the purpose and function of the North Carolina Zoological Park."

Sec. 2. G.S. 143B-335 is amended by adding a new subdivision to read:

"(2a) To establish and set admission fees with the approval of the Secretary of Natural Resources and Community Development as provided in G.S. 143-177.3(b)."
Sec. 3. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 28th day of April, 1981.

S. B. 262  CHAPTER 279
AN ACT REGARDING CONFISCATION AND DISPOSITION OF DEADLY WEAPONS IN CUMBERLAND COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 954 of the 1965 Session Laws is amended by deleting from Section 2-1/2 thereof the word “Cumberland”.

Sec. 2. The provisions of G.S. 14-269.1 apply to Cumberland County.

Sec. 3. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 28th day of April, 1981.

S. B. 311  CHAPTER 280
AN ACT TO ALLOCATE ALL OF THE STATE CEILING FOR TAX EXEMPT MORTGAGE SUBSIDY BONDS TO THE NORTH CAROLINA HOUSING FINANCE AGENCY.

The General Assembly of North Carolina enacts:

Section 1. Pursuant to 26 U. S. C. 103A(g)(6), the North Carolina Housing Finance Agency is allocated one hundred percent (100%) of the State ceiling on qualified mortgage bonds.

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 28th day of April, 1981.

S. B. 88  CHAPTER 281
AN ACT TO CLARIFY THE AUTHORITY OF LOCAL BOARDS OF HEALTH TO IMPOSE FEES.

The General Assembly of North Carolina enacts:

Section 1. The first paragraph of G.S. 130-17(e) is rewritten to read as follows:

“(e) A local board of health may contract with any person, including any governmental agency, for the provision or receipt of public health services. A local board of health may also impose a fee for services to be rendered by a local health department, except where the imposition of a fee is prohibited by statute or where an employee of the local health department is performing the services as an agent of the State. Fees shall be based upon a plan recommended by the local health director and approved by the local board of health and the appropriate board or boards of county commissioners.”

Sec. 2. This act shall become effective July 1, 1981.
In the General Assembly read three times and ratified, this the 30th day of April, 1981.
CHAPTER 282  Session Laws—1981

H. B. 145  CHAPTER 282

AN ACT TO REPEAL SUBCHAPTER I OF CHAPTER 54 OF THE GENERAL STATUTES, RELATING TO BUILDING AND LOAN ASSOCIATIONS, BUILDING ASSOCIATIONS, AND SAVINGS AND LOAN ASSOCIATIONS; AND TO REPEAL CHAPTER 54A OF THE GENERAL STATUTES, RELATING TO STOCK-OWNED SAVINGS AND LOAN ASSOCIATIONS; AND TO ENACT A NEW CHAPTER 54B OF THE GENERAL STATUTES TO BE ENTITLED, "SAVINGS AND LOAN ASSOCIATIONS".

The General Assembly of North Carolina enacts:

Section 1.  Subchapter I of Chapter 54 of the General Statutes is hereby repealed.

Sec. 2.  Chapter 54A of the General Statutes is hereby repealed.

Sec. 3.  A new Chapter 54B, entitled "Savings and Loan Associations", is hereby enacted and reads as follows:

"ARTICLE 1.

"General Provisions.

"§ 54B-1. Title.—This Chapter shall be known and may be cited as 'Savings and Loan Associations'.

"§ 54B-2. Purpose.—The purpose of this Chapter is:

(1) to provide for the safe and sound conduct of the business of savings and loan associations, the conservation of their assets and the maintenance of public confidence in savings and loan associations;

(2) to provide for the protection of the interests of customers and members, and the public interest in the soundness of the savings and loan industry;

(3) to provide the opportunity for savings and loan associations to remain competitive with each other and with other savings and financial institutions existing under other laws of this and other states and the United States;

(4) to provide the opportunity for savings and loan associations to serve effectively the convenience and advantage of customers and members, and to improve and expand their services and facilities for such purposes;

(5) to provide the opportunity for the management of savings and loan associations to exercise prudent business judgment in conducting the affairs of savings and loan associations to the extent compatible with the purposes recited in this section; and

(6) to provide adequate rulemaking power and administrative discretion so that the regulation and supervision of savings and loan associations are readily responsive to changes in economic conditions and in savings and loan practices.

"§ 54B-3. Applicability of Chapter.—The provisions of this Chapter, unless the context otherwise specifies, shall apply to all State associations.

"§ 54B-4. Definitions and application of terms.—(a) The terms 'building and loan association' and 'savings and loan association' when used in the General Statutes, shall mean an association and shall be interchangeable. Use of either term shall be construed to include the other unless a different intention is expressly provided.

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

(1) 'Administrator' means the Administrator of the Savings and Loan Division.

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(2) 'Aggregate withdrawal value of withdrawable accounts' means the total value of all withdrawable accounts held by an association.

(3) 'Application' means the completed package of the application to organize a State association, establish a branch office or conversion of structure of a savings and loan association which the administrator considers in making his recommendation.

(4) 'Associate' when used to indicate a relationship with any person, means (i) any corporation or organization (other than the applicant or a majority-owned subsidiary of the applicant) of which such person is an officer or partner or is, directly or indirectly, the beneficial owner of ten percent (10%) or more of any class of equity securities, (ii) any trust or other estate in which such person has a substantial beneficial interest or as to which such person serves as trustee or in a similar fiduciary capacity, and (iii) that person's spouse, father, mother, children, brothers, sisters, and grandchildren; the father, mother, brothers, and sisters of that person's spouse; and the spouse of that person's child, brother or sister.

(5) 'Association' includes a State association or a federal association unless limited by use of the words 'State' or 'federal'.

(6) 'Borrowers' means those who borrow funds from or in any other way become obligated on a loan to an association.

(7) 'Branch office' means an office of an association other than its principal office which renders savings and loan services.

(8) 'Capital stock' means securities which represent ownership of a stock association.

(9) 'Certificate of approval' means a document signed by the administrator informing the North Carolina Secretary of State that the Commission has approved the certificate of incorporation of a proposed association.

(10) 'Certificate of authority to enter' means the document issued by the administrator to permit a foreign association to conduct business in this State.

(11) 'Certificate of incorporation or charter' means the document which represents the corporate existence of a State association.

(12) 'Certified copy' means a copy of an original document or paper which has been signed by the person or persons who certify such document to be an exact copy of the original.

(13) 'This Chapter' means Chapter 54B of the North Carolina General Statutes.

(14) 'Commission' means the North Carolina Savings and Loan Commission of the Department of Commerce.

(15) 'Conflict of interest' means a matter before the board of directors in which one or more of the directors, officers or employees has a direct or indirect financial interest in its outcome.

(16) 'Conformed copies' means photocopies or carbon copies or other mechanical reproductions of an original document or paper.

(17) 'Court of competent jurisdiction' means a court in North Carolina which is qualified to hear the case at hand.

(18) 'Disinterested directors' means those directors who have absolutely no direct or indirect financial interest in the matter before them.

(19) 'Dividends on stock' means the earnings of an association paid out to holders of capital stock in a stock association.
(20) 'Dividends on withdrawable accounts' means the consideration paid by an association to a holder of a withdrawable account for the use of his money.

(21) 'Division' means the Savings and Loan Division of the North Carolina Department of Commerce.

(22) 'Entrance fee per withdrawable account' means the amount to be paid by each person, firm or corporation when he or it pledges to a proposed mutual association to deposit funds in a withdrawable account.

(23) 'Examination and investigation' means a supervisory inspection of an association or proposed association which may include inspection of every relevant piece of information including subsidiary or affiliated businesses.

(24) 'Federal association' means a corporation or association organized and operated under the provisions of federal law and regulation to conduct a savings and loan business.

(25) 'Financial institution' means a person, firm or corporation engaged in the business of receiving, soliciting or accepting money or its equivalent on deposit and/or lending money or its equivalent.

(26) 'Foreign association' means a corporation or association organized in another state to conduct a savings and loan business and is so like a State association that it may, after qualifying, be certified to conduct the savings and loan business in this State.

(27) 'General reserve account' means the account from which an association shall meet its losses.

(28) 'Guaranty association' means a mutual deposit guaranty association which is a corporation organized under this Chapter or its predecessor and operated under the provisions of Article 12 of this Chapter.

(29) 'Immediate family' means one's spouse, father, mother, children, brothers, sisters, and grandchildren; and the father, mother, brothers, and sisters of one's spouse; and the spouse of one's child, brother or sister.

(30) 'Initial pledges for withdrawable accounts' means those pledges of funds by persons who promise to a proposed mutual association to deposit such amount if and when such proposed association becomes established.

(31) 'Insurance of withdrawable accounts' means insurance on an association's withdrawable accounts when the beneficiary is the holder of such insured account.

(32) 'Liquidity fund' means that portion of the assets of an association which is required to be held in readily marketable form.

(33) 'Members' means those persons who hold withdrawable accounts or are borrowers from a mutual association and are deemed the owners of the association.

(34) 'Minimum amount of consideration' means the amount of money a stock association shall be required to have received on the sale of its stock, before it shall commence business.

(35) 'Minimum amount on deposit in withdrawable accounts' means the amount of money which a mutual association must have on hand prior to its commencement of business.

(36) 'Mutual association' means all mutual savings and loan associations owned by members of the association, and organized under the provisions of this Chapter or its predecessor for the primary purpose of promoting thrift and home financing.
(37) ‘Net withdrawal value of withdrawable accounts’ means the aggregate of
the withdrawal value of an association’s withdrawable accounts less the amount
of any pledged withdrawable account which serves as security for a loan.

(38) ‘Net worth’ means an association’s total assets less total liabilities.

(39) ‘Original incorporators’ means the organizers of a State association
responsible for the business of a proposed association from the filing of
the application to the Commission’s final decision on such application.

(40) ‘Plan of conversion’ means a detailed outline of the procedure of the
conversion of an association from one to another regulatory authority or from
one to another form of ownership.

(41) ‘Principal office’ means the office which houses the headquarters of an
association.

(42) ‘Proposed association’ means an entity in organizational procedures prior
to the Commission’s final decision on its charter application.

(43) ‘Registered agent’ means the person named in the certificate of
incorporation upon whom service of legal process shall be deemed binding upon
the association.

(44) ‘Rules and regulations’ means those regulatory procedures and guidelines
issued by the administrator and approved by the Commission.

(45) ‘Service corporation’ means a corporation operating under the provision
of Article 8 of this Chapter which engages in activities determined by the
administrator by rules and regulations to be incidental to the conduct of a
savings and loan business as provided in this Chapter or activities which
further or facilitate the corporate purposes of an association, or which furnishes
services to an association or subsidiaries of an association, the voting stock of
which is owned directly or indirectly by one or more associations.

(46) ‘Specific reserve account’ means an account held by an association as a
loss reserve for coverage on specific loans and investments.

(47) ‘This State’ means the State of North Carolina.

(48) ‘State association’ means a corporation or association organized under
this Chapter or its predecessor and operated under the provisions of this
Chapter to conduct the savings and loan business; or a corporation organized
under the provisions of the predecessors to this Chapter and operated under the
provisions of this Chapter; or a corporation organized under the provisions of
federal law and so converted as to be operated under the provisions of this
Chapter.

(49) ‘Stock association’ means any corporation or company owned by holders
of capital stock and organized under the provisions of this Chapter for the
primary purpose of promoting thrift and home financing.

(50) ‘Subscriptions’ means the promise to purchase capital stock in a stock
association and payment of a portion of the selling price.

(51) ‘Total assets’ means the aggregate amount of assets of any and every kind
held by an association.

(52) ‘Voluntary dissolution’ means the dissolution and liquidation of an
association initiated by its ownership.

(53) ‘Withdrawable accounts’ means accounts in which a customer or member
places funds with an association which may be withdrawn by the account
holder.

(54) ‘Withdrawal application’ means the request in writing by a withdrawable
account holder to withdraw part or all of his balance.
"ARTICLE 2.

"Incorporation and Organization.

"§ 54B-5. Severability.—If any section or subsection of this Chapter, or the application thereof to any person is held invalid, the remaining sections or subsections of this Chapter, and the application of such section or subsection to any other person, shall not be invalidated or affected thereby.

"§ 54B-6. Hearings.—Any hearing required to be held by this Chapter shall be conducted in accordance with the applicable provisions of Article 3 of Chapter 150A of the General Statutes.

"§ 54B-7. Application of Chapter on business corporations.—All the provisions of law relating to private corporations, and particularly those enumerated in Chapter 55, of the General Statutes, entitled 'Business Corporation Act', which are not inconsistent with this Chapter, or with the proper business of savings and loan associations shall be applicable to all State associations.

"§ 54B-8. Scope and prohibitions.—(a) Nothing in this Chapter shall be construed to invalidate any charter that was valid prior to the enactment of this Chapter. All such associations shall continue operation in full force, but such associations shall be operated in accordance with the provisions of this Chapter.

(b) Foreign associations certified to operate in this State may do so only when in accordance with the provisions of Article 11 of this Chapter.

(c) No person or group of persons, nor any corporation, company, or association except one incorporated and licensed in accordance with the provisions of this Chapter to operate a State association, shall operate as a State association. Unless so authorized as a State, federal or foreign association and actually engaged in transacting a savings and loan business, no person or group of persons, nor any corporation, company, or association domiciled and doing business in this State shall:

(1) use in its name the terms 'building and loan association' or 'savings and loan association' or words of similar import or connotation that lead the public reasonably to believe that the business so conducted is that of a savings and loan association; or

(2) use any sign, or circulate or use any letterhead, billhead, circular or paper whatsoever, or advertise or communicate in any manner that would lead the public reasonably to believe that it is conducting the business of a savings and loan association.

(d) Upon application by the administrator or by any savings and loan association, a court of competent jurisdiction may issue an injunction to restrain any person or entity from violating or from continuing to violate any of the foregoing provisions of subsection (c).

"§ 54B-9. Application to organize a savings and loan association.—(a) It shall be lawful for any 10 or more natural persons (hereinafter referred to as the 'incorporators'), who are domiciled in this State, to organize and establish a savings and loan association in order to promote thrift and home financing, subject to approval as hereinafter provided in this Chapter. The incorporators shall file with the administrator a preliminary application to organize a State association, in the form to be prescribed by the administrator, together with the proper nonrefundable application fee.
The application to organize a State association shall be received by the administrator not less than 60 days prior to the scheduled consideration of the application by the Commission, and it shall contain:

(1) the original of the certificate of incorporation, which shall be signed by the original incorporators, or a majority of them, but not less than 10, and shall be properly acknowledged by a person duly authorized by this State to take proof or acknowledgement of deeds; and two conformed copies;

(2) the names and addresses of the incorporators; and the names and addresses of the initial members of the board of directors;

(3) statements of the anticipated receipts, expenditures, earnings and financial condition of the association for its first two years of operation, or such longer period as the administrator may require;

(4) a showing satisfactory to the Commission that:
   a. the public convenience and advantage will be served by the establishment of the proposed association;
   b. there is a reasonable demand and necessity in the community which will be served by the establishment of the proposed association;
   c. the proposed association will have a reasonable probability of sustaining profitable and beneficial operations within a reasonable time in the community in which the proposed association intends to locate;
   d. the proposed association, if established, will promote healthy and effective competition in the community in the delivery to the public of savings and loan services;

(5) the proposed bylaws;

(6) statements, exhibits, maps and other data which may be prescribed or requested by the administrator, which data shall be sufficiently detailed and comprehensive so as to enable the administrator to pass upon the criteria set forth in this Article.

The application shall be signed by the original incorporators or a majority of them but not less than 10, and shall be properly acknowledged by a person duly authorized by this State to take proof and acknowledgement of deeds.

§ 54B-10. Certificate of incorporation.—(a) The certificate of incorporation of a proposed mutual savings and loan association shall set forth:

(1) the name of the association, which must not so closely resemble the name of an existing association doing business under the laws of this State as to be likely to mislead the public;

(2) the county and city or town where its principal office is to be located in this State; and the name of its registered agent and the address of its registered office, including county and city or town, and street and number;

(3) the period of duration, which may be perpetual. When the certificate of incorporation fails to state the period of duration, it shall be considered perpetual;

(4) the purposes for which the association is organized, which shall be limited to purposes permitted under the laws of this State for savings and loan associations;

(5) the amount of the entrance fee per withdrawable account based upon the amount pledged;
(6) the minimum amount on deposit in withdrawable accounts before it shall commence business;

(7) any provision not inconsistent with this Chapter and the proper operation of a savings and loan association, which the incorporators shall set forth in the certificate of incorporation for the regulation of the internal affairs of the association;

(8) the number of directors, which shall not be less than seven, constituting the initial board of directors (which may be classified in accordance with the provisions of G.S. 55-26), and the name and addresses of each person who is to serve as a director until the first meeting of members, or until his successor be elected and qualified;

(9) the names and addresses of the incorporators.

(b) The certificate of incorporation of a proposed stock savings and loan association shall set forth:

(1) the name of the association, which must not so closely resemble the name of an existing association doing business under the laws of this State as to be likely to mislead the public;

(2) the county and city or town where its principal office is to be located in this State; and the name of its registered agent and the address of its registered office, including county and city or town, and street and number;

(3) the period of duration, which may be perpetual. When the certificate of incorporation fails to state the period of duration, it shall be considered perpetual;

(4) the purposes for which the association is organized, which shall be limited to purposes permitted under the laws of this State for savings and loan associations;

(5) with respect to the shares of stock which the association shall have authority to issue:
   a. if the stock is to have a par value, the number of such shares of stock and the par value of each;
   b. if the stock is to be without par value, the number of such shares of stock;
   c. if the stock is to be of both kinds mentioned in paragraphs a. and b. of subdivision 5 of this subsection, particulars in accordance with those paragraphs;
   d. if the stock is to be divided into classes, or into series within a class of preferred or special shares of stock, the certificate of incorporation shall also set forth a designation of each class, with a designation of each series within a class, and a statement of the preferences, limitations, and relative rights of the stock of each class or series;

(6) the minimum amount of consideration to be received for its shares of stock before it shall commence business;

(7) a statement as to whether stockholders have preemptive rights to acquire additional or treasury shares of the association and any provision limiting or denying said rights;

(8) any provision not inconsistent with this Chapter or the proper operation of a savings and loan association, which the incorporators shall set forth in the certificate of incorporation for the regulation of the internal affairs of the association;
(9) the number of directors, which shall not be less than seven, constituting
the initial board of directors (which may be classified in accordance
with the provisions of G.S. 55-26) and the name and address of each
person who is to serve as a director until the first meeting of the
stockholders, or until his successor be elected and qualified;

(10) the names and addresses of the incorporators.

(c) The certificate of incorporation, whether for a mutual association or stock
association, shall be signed by the original incorporators, or a majority of them,
but not less than 10, and shall be acknowledged before an officer duly
authorized under the law of this State to take proof or acknowledgement of
deeds, and shall be filed along with two conformed copies in the office of the
administrator as provided in G.S. 54B-8.

"§ 54B-11. Administrator to consider application.—(a) Upon receipt of an
application the administrator shall examine or cause to be examined all the
relevant facts connected with the formation of the proposed association. If it
appears to the administrator that the proposed association has complied with
all the requirements set forth in this Chapter for the formation of a State
association, and with all the requirements set forth in the regulations for the
formation of a State association and that the association is otherwise lawfully
entitled to form a State association, the administrator shall present the
application to the Commission.

(b) If the administrator determines that an application is not in procedural
compliance with this Chapter, or if any part of the application contains
incorrect or insufficient information so that the administrator cannot make a
recommendation on the application, he shall notify the incorporators. He shall
include suggestions as to amendments to the application so that it may conform.

(c) If the administrator determines that an application is in procedural
compliance with the this Chapter, but for some substantive reason the
administrator believes that the application should not be approved, the
administrator shall recommend to the Commission at a public hearing
conducted pursuant to G.S. 54B-13 that it deny the application.

"§ 54B-12. Criteria to be met before the administrator may recommend
approval of an application.—(a) The administrator may recommend approval of
an application to form a mutual association only when all of the following
criteria are met:

(1) The proposed association has an operational expense fund, from which
to pay organizational and incorporation expenses, in an amount
determined by the administrator to be sufficient for the safe and proper
operation of the association, but in no event less than seventy-five
thousand dollars ($75,000). The moneys remaining in such expense fund
shall be held by the association for at least one year from its date of
licensing. No portion of such fund shall be released to an incorporator or
director who contributed to it, nor to any other contributor, nor to any
other person and no dividends shall be accrued or paid on such funds
without the prior approval of the administrator.

(2) The proposed association has pledges for withdrawable accounts in an
amount determined by the administrator to be sufficient for the safe
and proper operation of the association, but in no event less than three
hundred fifty thousand dollars ($350,000).

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(3) All entrance fees for withdrawable accounts of the proposed association have been made with legal tender of the United States.

(4) All initial pledges for withdrawable accounts of the proposed association are made by residents of North Carolina.

(5) The name of the proposed association will not mislead the public and is not the same as an existing association or so similar to the name of an existing association as to mislead the public.

(6) The character, general fitness and responsibility of the incorporators and the initial board of directors of the proposed association who shall be residents of North Carolina are such as to command the confidence of the community in which the proposed association intends to locate.

(7) There is a reasonable demand and necessity in the community which will be served by the establishment of the proposed association.

(8) The public convenience and advantage will be served by the establishment of the proposed association.

(9) The proposed association will have a reasonable probability of sustaining profitable and beneficial operations in the community.

(10) The proposed association, if established, will promote healthy and effective competition in the community in the delivery to the public of savings and loan services.

(b) The administrator may recommend approval of an application to form a stock association only when all of the following criteria are met:

(1) The proposed association has subscriptions for capital stock in an amount determined by the administrator to be sufficient for the safe and proper operation of the association, but in no event less than one million five hundred thousand dollars ($1,500,000).

(2) The proposed association has certified that it shall set aside from the amount of subscriptions for capital stock required by subdivision (1) of this subsection, as a permanent capital reserve, an amount of funds determined by the administrator to be sufficient for the safe and proper operation of the association, but in no event less than five hundred thousand dollars ($500,000).

(3) All subscriptions for capital stock of the proposed association have been purchased with legal tender of the United States.

(4) All owners of subscriptions for capital stock of the proposed association are natural persons and residents of this State.

(5) The proposed association has certified that it will neither sell nor permit the transfer to any corporate person or to any person not a resident of this State any stock in the proposed association from the time of application until 180 days following the opening for business by such association.

(6) No person, either alone or in combination with members of his immediate family, owns subscriptions for more than ten percent (10%) of the stock in the proposed association.

(7) No financial institution owns subscriptions for stock in the association. Notwithstanding any other provision of this Chapter, stock ownership in a stock savings and loan association shall not be held by any other financial institution, except in the following situations:

a. a financial institution holding stock of a stock savings and loan association in a fiduciary or trust capacity, provided that, the
financial institution shall whenever possible assign the voting rights in the stock to a disinterested person; provided further that, in no event may the financial institution exercise the voting rights in more than five percent (5%) of the outstanding stock in a stock savings and loan association;

b. a financial institution holding stock of a stock savings and loan association for a reasonable time for the sole purpose of sale to the general public, provided that, the financial institution shall not vote the stock;

c. a financial institution holding for a reasonable time, in its name or the name of its nominee, stock of a stock savings and loan association for the sole purpose of sale, where the stock was acquired through foreclosure or a convenience in lieu of foreclosure on a loan for which the stock served as collateral, provided that, the financial institution shall not vote the stock;

d. a financial institution holding stock of a stock savings and loan association as collateral for a loan, provided that, that stock is not registered in the name of the financial institution or in the name of a nominee of the financial institution, provided further that, the financial institution shall not vote the stock; or

e. for purposes of merger as provided in G.S. 54B-38.

(8) The name of the proposed association will not mislead the public and is not the same as an existing association or so similar to the name of an existing association as to mislead the public; and contains the wording ‘corporation’, ‘incorporated’, ‘limited’, or ‘company’, an abbreviation of one of such words or other words sufficient to distinguish stock associations from mutual associations.

(9) The character, general fitness, and responsibility of the incorporators, initial board of directors and initial stockholders of the proposed association who shall be residents of North Carolina are such as to command the confidence of the community in which the proposed association intends to locate.

(10) There is a reasonable demand and necessity in the community which will be served by the establishment of the proposed association.

(11) The public convenience and advantage will be served by the establishment of the proposed association.

(12) The proposed association will have a reasonable probability of sustaining profitable and beneficial operations in the community.

(13) The proposed association, if established, will promote healthy and effective competition in the community in the delivery to the public of savings and loan services.

“§ 54B-13. Savings and Loan Commission to review findings and recommendations of administrator.—(a) If the administrator does not have the completed application within 120 days of the filing of the preliminary application, the application shall be returned to the applicants.

(b) When the administrator has completed his examination and investigation of the facts relevant to the establishment of the proposed association, he shall present his findings and recommendations to the Commission at a public hearing. The Savings and Loan Commission must approve or reject an application within 180 days of the submission of the preliminary application.
(c) Not less than 60 days prior to the public hearing held for the consideration of the application to establish a savings and loan association, the incorporators shall cause to be published a notice in a newspaper of general circulation in the area to be served by the proposed association. Such notice shall contain:

(1) a statement that the application has been filed with the administrator;
(2) the name of the community where the principal office of the proposed association intends to locate;
(3) a statement that a public hearing shall be held to consider the application; and
(4) a statement that any interested or affected party may file a written statement either favoring or protesting the creation of the proposed association. Such statement must be filed with the administrator within 30 days of the date of publication.

(d) The Commission, at the public hearing, shall consider the findings and recommendation of the administrator and shall hear such oral testimony as he may wish to give or be called upon to give, and shall also receive information and hear testimony from the incorporators of the proposed association and from any and all other interested or affected parties. The Commission shall hear only testimony and receive only information which is relevant to the consideration of the application and the operation of the proposed association.

"§ 54B-14. Grounds for approval or denial of application.—(a) After consideration of the findings and recommendation of the administrator and his oral testimony, if any, and the consideration of such other information and evidence, either written or oral, as has come before it at the public hearing, the Commission shall approve or disapprove the application within 30 days after the public hearing. The Commission shall approve the application if it finds that the certificate of incorporation is in compliance with the provisions of G.S. 54B-10, that all the criteria set out in G.S. 54B-12 have been complied with, and that all other applicable provisions of this Chapter and the General Statutes have been complied with.

(b) If the Commission approves the application, the administrator shall so notify the Secretary of State with a certificate of approval, accompanied by the original of the certificate of incorporation and the two conformed copies.

(c) Upon receipt of the certificate of approval, the original of the certificate of incorporation, and the two conformed copies, the Secretary of State shall examine the certificate of incorporation to determine whether it is in compliance with the provisions of any applicable General Statutes other than this Chapter. If it is in compliance, the Secretary of State shall, upon the payment by the newly chartered association of the appropriate organization tax and fees, file the certificate of incorporation in accordance with G.S. 55-4, except that he shall certify under his official seal the two conformed copies of the certificate of incorporation, one of which shall forthwith be forwarded to the incorporators or their representative, for the purpose of recordation in the office of the register of deeds of the county where the principal office of the association shall be located, in accordance with G.S. 55-4(a)(6), the other of which shall be forwarded to the office of the administrator for filing. Upon the recordation of the certificate of incorporation by the Secretary of State, the association shall be a body politic and corporate under the name stated in such
certificate, and shall be authorized to begin the savings and loan business when duly licensed by the administrator.

(d) The said certificate of incorporation, or a copy thereof, duly certified by the Secretary of State, or by the register of deeds of the county where the association is located, or by the administrator, under their respective seals, shall be evidence in all courts and places, and shall, in all judicial proceedings, be deemed prima facie evidence of the complete organization and incorporation of the association purporting thereby to have been established.

"§ 54B-15. Final decision.—The Commission shall present the administrator with a final decision which shall be in accordance with the applicable provisions of Chapter 150A of the General Statutes.

"§ 54B-16. Appeal.—The final decision of the Commission may be appealed in accordance with Chapter 150A of the General Statutes.

"§ 54B-17. Insurance of accounts required.—All State associations must obtain and maintain insurance on all members' and customers' withdrawable accounts. Contracts for such insurance may be made with any mutual deposit guaranty association organized under Article 12 of this Chapter, or its predecessor, or from the Federal Savings and Loan Insurance Corporation. Prior to the licensing of an association, a certificate of incorporation duly recorded under the provisions of G.S. 54B-14(c), shall be deemed to be sufficient certification to the insuring corporation that the association is a legal corporate entity. Such insurance must be obtained within the time limit prescribed in G.S. 54B-18.

"§ 54B-18. Time allowed to commence business.—A newly chartered association shall commence business within six months after the date upon which its corporate existence shall have begun. An association which shall not commence business within such time, shall forfeit its corporate existence, unless the administrator, before the expiration of such six-month period, shall have approved an extension of the time within which the association may commence business, upon a written request stating the reasons for which such request is made. Upon such forfeiture, the certificate of incorporation shall expire, and any and all action taken in connection with the incorporation and chartering of the association, with the exception of fees paid to the Division, shall become null and void. The administrator shall determine if an association has failed to commence business within six months, without extension as provided in this section, and shall notify the Secretary of State and the register of deeds in the county in which the association is located that the certificate of incorporation has expired.

"§ 54B-19. Licensing.—A newly chartered association shall be entitled to a license to operate upon payment to the Division of the appropriate license fee as prescribed by the administrator, when it shows to the satisfaction of the administrator evidence of capable, efficient and equitable management, and when it passes a final inspection by the administrator or his representatives preceding the opening of its doors for business.

"§ 54B-20. Amendments to certificate of incorporation.—(a) Any addition, alteration or amendment to the certificate of incorporation of any State association shall be made at any annual or special meeting of such association, held in accordance with the provisions of G.S. 54B-106 and G.S. 54B-107 by a majority of the total votes which members of a mutual association are eligible and entitled to cast, or by a majority of the total votes which stockholders of a
stock association are eligible and entitled to cast, present in person or represented by proxy at any such meeting. Any such addition, alteration or amendment shall be signed, submitted to the administrator for his approval or rejection, and if approved, then certified and recorded as provided for in G.S. 54B-9 and G.S. 54B-10 for certificates of incorporation.

“§54B-21. List of stockholders to be maintained.—Every stock association organized and operated under the provisions of this Chapter or its predecessor shall at all times cause to be kept an up-to-date list of the names of all its stockholders. Annually, in January or whenever called upon by the administrator, file in the office of the administrator a correct list of all its stockholders, the resident address of each, the number of shares of stock held by each, and the dates of issue.

“§54B-22. Branch offices.—(a) Any State association may apply to the administrator for permission to establish a branch office. The application shall be in such form as may be prescribed by the administrator. Branch applications shall be approved or denied by the administrator within 120 days of filing.

(b) The administrator shall approve a branch application when all of the following criteria are met:

(1) the applicant has gross assets of at least ten million dollars ($10,000,000);

(2) the applicant has evidenced financial responsibility in that its principal office and any existing branch offices are soundly managed, and it has no record of any uncorrected serious supervisory difficulties;

(3) the applicant has a net worth equal to at least five percent (5%) of the net withdrawal value of its withdrawable accounts;

(4) the applicant has an acceptable internal control system. Such a system would include certain basic internal control requirements essential to the protection of assets and the promotion of operational efficiency regardless of the size of the applicant. Some of the factors which require extensive internal control requirements such as the use of a controller or internal auditor and more distinctive placement responsibilities include the applicant's size, number of personnel and history of and anticipated plans for expansion.

(c) Upon receipt of a branch application, the administrator shall examine or cause to be examined all the relevant facts connected with the establishment of the proposed branch office. If it appears to the satisfaction of the administrator that the applicant has complied with all the requirements set forth in this section and the regulations for the establishment of a branch office and that the association is otherwise lawfully entitled to establish such branch office, then the administrator shall approve the branch application.

(d) If the administrator determines that a branch application is not in procedural compliance with this section and the regulations for the establishment of a branch office or if any part of the application contains incorrect or insufficient information so that the administrator cannot make a decision on the application, he shall notify the applicant of his reasons, and give suggestions as to amendments to the application in order that it may conform.

(e) If the administrator determines that a branch application is in procedural compliance with this section and the regulations for the establishment of a branch office, but for some substantive reason the administrator believes that
the application should be denied, then the administrator shall deny the branch application.

(f) A branch application fee shall be paid by the applicant according to the fee schedule fixed in the regulations.

(g) Not less than 10 days following the filing of the branch application with the administrator, the applicant shall cause to be published a notice in a newspaper of general circulation in the area to be served by the proposed branch office. Such notice shall contain:

1. A statement that the application has been filed with the administrator;
2. The proposed address of the branch office, including city or town and street;
3. A statement that a public hearing on the application will be held before the administrator; and
4. A statement that any interested or affected party may file a written statement either favoring or protesting the establishment of the proposed branch office. Such statement must be filed with the administrator within 30 days of the date of the publication.

(h) The administrator, at the public hearing, shall receive information and hear testimony from the applicant and from any interested or affected party. The administrator shall hear only testimony and receive only information which is relevant to the consideration of the branch application and operation of the proposed branch office.

(i) The administrator shall issue his final decision on the branch application within 30 days following the public hearing. Such final decision shall be in accordance with the applicable provisions of Chapter 150A of the General Statutes.

(j) Any party to a branch application may appeal the final decision of the administrator to the Commission at any time after final decision, but not later than 30 days after a written copy of the final decision is served upon the party and his attorney of record by personal service or by certified mail. Failure to file such appeal within the time stated shall operate as a waiver of the right of such party to review by the Commission and by a court of competent jurisdiction in accordance with Chapter 150A of the General Statutes, relating to judicial review.

"§ 54B-23. Application to change location of a branch or principal office.—(a) The board of directors of a State association may change the location of a branch office or the principal office of the association by submitting to the administrator an application for such change on forms prescribed by the administrator.

(b) Upon receipt of an application accompanied by the proper application fee, the administrator shall conduct, or cause to be conducted, an examination and investigation of the facts and circumstances connected with the consideration of the application. After such examination and investigation, the administrator shall make a recommendation to the Commission on the application at a properly publicized hearing at which other concerned parties may present their views.

(c) If an application filed under this section is approved by the Commission and the association fails to change the location of such branch office or principal office within six months after the date of the order approving such application,
such approval shall be revoked. Such a six-month period may be extended upon a showing to the satisfaction of the administrator of good cause.

"§ 54B-24. Approval revoked; branch office.—The Commission may, for good cause and after a hearing, order the closing of a branch office. Such order shall be made in writing to the association and shall fix a reasonable time after which the association shall close the branch office.

"§ 54B-25. Branch office closed.—The board of a State association may discontinue the operation of a branch office upon 60 days prior written notice to the administrator. The association shall notify the administrator in writing of the date upon which the branch office shall be closed.

§ 54B-26 to 54B-29. Reserved for future codification purposes.

"ARTICLE 3.

"Fundamental Changes.

"§ 54B-30. Conversion from State to federal association.—Any State savings and loan association, stock or mutual, organized and operated under the provisions of this Chapter, may convert into a federal savings and loan association in accordance with the provisions of the laws and regulations of the United States and with the same force and effect as though originally incorporated under such laws, and the procedure to effect such conversion shall be as follows:

1) The association shall submit a plan of conversion to the administrator, and he may approve the same, with or without amendment, or refuse to approve the plan. If he approves the plan, then the plan shall be submitted to the members or stockholders as provided in the next subdivision. If he refuses to approve the plan, he shall state his objections in writing and give the converting association an opportunity to amend the plan to obviate such objections or to appeal his decision to the Commission.

2) A meeting of the members or stockholders shall be held upon not less than 30 days' written notice to each member or stockholder, served personally or mailed to the last known address of such member or stockholder, postage prepaid. The notice shall contain a statement of the time, place and purpose for which such meeting is called. It shall be regarded as sufficient notice of the purpose of the meeting if the notice contains the following statement: ‘The purpose of this meeting is to consider the conversion of this State chartered association into a federally chartered association, pursuant to the laws of the United States.’ An appropriate officer of the association shall make proof by affidavit at such meeting of due service of the notice or call for said meeting.

3) At the meeting of the members or stockholders of such association, such members or stockholders may, by affirmative vote of a majority of shares or votes eligible to be cast by members or stockholders, in person or by proxy, resolve to convert said association to a federal savings and loan association. A copy of the minutes of the meeting of the members or stockholders certified by an appropriate officer of the association shall be filed in the office of the administrator within 10 days after such meeting. The said certified copy when so filed shall be prima facie evidence of the holding and the action of the meeting.

4) Within a reasonable time after the receipt of a certified copy of the minutes, the administrator shall either approve or disapprove the proceedings of the meeting for compliance with the procedure set forth in this section. If the administrator approves the proceedings he shall endorse the certified copy of
the minutes, and shall issue a certificate of his approval of the conversion and proceedings and send the same to the association. Such certificate shall be recorded in the office of the Secretary of State and in the office of the register of deeds of the county in which the association has its principal office, and the original shall be held by the association. If the administrator disapproves the proceedings he shall note his disapproval on the certified copy of the minutes and notify the Commission and the association of his disapproval. The association may appeal a disapproval to the Commission.

(5) Within 60 days after approval of the proceedings by the administrator, the association shall file an application, in the manner prescribed or authorized by the laws and regulations of the United States, to consummate the conversion to a federal association. A copy of the charter or authorization issued to such association by the Federal Home Loan Bank Board, or a certificate showing the organization or conversion of such association into a federal savings and loan association, and upon such filing with the administrator the association shall cease to be a State association and shall be a federal association.

(6) Whenever any such association shall convert into a federal savings and loan association it shall cease to be an association under the laws of this State, except that its corporate existence shall be deemed to be extended for the purpose of prosecuting or defending suits by or against it and of enabling it to close its business affairs as a State association, and to dispose of and convey its property. At the time when such conversion becomes effective, all the property of the State association including all its rights, title and interest in and to all property of whatever kind, whether real, personal or mixed, and things in action, and every right, privilege, interest and asset of any conceivable value or benefit then existing, belonging or pertaining to it, or which would inure to it, shall immediately by act of law and without any conveyance or transfer, and without any further act or deed, be vested in and become the property of the federal association, which shall have, hold and enjoy the same in its own right as fully and to the same extent as the same was possessed, held and enjoyed by the State association; and the federal association as of the effective time of such conversion shall succeed to all the rights, obligations and relations of the State association.

"§ 54B-31. Conversion from federal to State association.—Any federal savings and loan association, stock or mutual, organized and existing under the laws and regulations of the United States and duly authorized to operate and actually operating in North Carolina may convert into a State savings and loan association operating under the provisions of this Chapter, with the same force and effect as though originally incorporated under the provisions of this Chapter, by complying with the rules and regulations of the federal regulatory authority, and also by following the procedure as set forth in this section:

(1) The federal association shall submit a plan of conversion to the administrator. When such plan, either with or without amendment, has been approved by the administrator, it shall be submitted to the members or stockholders of the association as provided in the next subdivision.

(2) A meeting of the members or stockholders shall be held upon not less than 30 days' written notice to each member or stockholder, served personally or mailed to the last known address of such member or stockholder, postage prepaid. The notice shall contain a statement of the time, place and purpose for which such meeting is called. It shall be regarded as sufficient notice of the
purpose of the meeting if the call contains the following statement: 'The purpose of this meeting is to consider the conversion of this federally chartered association to a State chartered savings and loan association, pursuant to the provisions of the laws of the State of North Carolina'. An appropriate officer of the association shall make proof by affidavit at such meeting of the due service of the notice or call for said meeting.

(3) At the meeting of the members or stockholders of the association, the members or stockholders may, by affirmative vote of a majority of those votes eligible to be cast by members or stockholders, in person or by proxy, resolve to convert the association to a State association. A copy of the minutes of the meeting of the members or stockholders, certified by an appropriate officer of the association, shall be filed with the administrator within 10 days after the meeting, accompanied by a conversion fee. The certified copy when so filed shall be prima facie evidence of the holding of and the action taken at the meeting.

(4) Within 30 days after the approval of the proceedings by the administrator and the approval of the conversion by the federal authority, and by the insuring corporation, the association shall file with the administrator, the Secretary of State, and the register of deeds of the county where such association intends to operate a copy of the certificate of incorporation of such association, signed by at least seven directors. The certificate of incorporation shall conform to the provisions of the laws of this State. The Secretary of State and the register of deeds of the county where the association has its principal office shall not issue or record the certificate of incorporation until authorized to do so by the administrator. Upon receipt of a copy of the certificate of incorporation the administrator shall cause to be made a careful examination and investigation of the facts connected with the conversion of the association, including an examination of its affairs generally and a determination of its assets and liabilities. The reasonable cost and expenses of the examination and investigation shall be paid by the association. If it appears that the association, if converted, will lawfully be entitled to conduct business as a State association pursuant to the provisions of this Chapter, the administrator shall so certify to the Secretary of State and the register of deeds in the county in which the association is located, who shall thereupon issue and record such certificate of incorporation. Upon issuance and recordation of the certificate of incorporation the association shall file with the appropriate federal regulatory authority a certified copy of same. Upon such filing, the association shall cease to be a federal association and shall be converted to a State association.

(5) Upon conversion, all the property of the federal association, including all its rights, title and interest in and to all property of whatsoever kind whether real, personal or mixed, and things in action, and every right, privilege, interest and asset of any conceivable value or benefit then existing, belonging or pertaining to it, or which would inure to it, shall immediately by act of law and without any conveyance or transfer, and without any further act or deed, be vested in and become the property of the State association, which shall have, hold, and enjoy the same in its own right as fully and to the same extent as if the same was possessed, held or enjoyed by said federal association; and such State association shall be deemed to be a continuation of the entity and the identity of said federal association, operating under and pursuant to the provisions of this Chapter, and all rights, obligations and relations of said
federal association to or in respect to any person, estate, or creditor, depositor, trustee or beneficiary of any trust, and to or in respect to any executorship or trusteeship or other trust or fiduciary function, shall remain unimpaired, and the State association, shall by operation of this section succeed to all such rights, obligations, relations and trusts, and the duties and liabilities connected therewith, and shall execute and perform each and every such right, obligation, trust and relation in the same manner as if such State association had itself assumed the trust or relation, including the obligations and liabilities connected therewith.

"§ 54B-32. Simultaneous charter and ownership conversion.—(a) In the event of a State charter to federal charter conversion, when the form of ownership will also simultaneously be changed from stock to mutual, or from mutual to stock, the conversion shall proceed initially as if it involves only a charter conversion, under G.S. 54B-30. After the association becomes a federal association, then the federal regulatory authority shall govern the continuing conversion of the form of ownership of such newly converted association.

(b) In the event of a federal charter to State charter conversion, when the form of ownership will also simultaneously be changed from stock to mutual or from mutual to stock, the conversion shall proceed initially as if it involves only a charter conversion, under G.S. 54B-31. After the association becomes a State association, the provisions of G.S. 54B-33 or G.S. 54B-34 shall govern the continuing conversion of the form of ownership of such newly converted association.

"§ 54B-33. Conversion of mutual to stock association.—(a) Any mutual association may convert from mutual to the stock form of ownership as provided in this section.

(b) A mutual association may apply to the administrator for permission to convert to a stock association and for certification of appropriate amendments to the association's certificate of incorporation. Upon receipt of an application to convert from mutual to stock form the administrator shall examine all facts connected with the requested conversion. The expenses and cost of such examination, monitoring and supervision shall be paid by the association applying for permission to convert.

(c) Upon completion of his examination the administrator shall report his findings to the Commission. After reviewing the findings of the administrator and conducting any further appropriate examinations and investigations the Commission may approve and permit the requested conversion if it appears that:

(1) after conversion the association will be in sound financial condition and will be soundly managed;
(2) the conversion will not impair the capital of the association nor adversely affect the association's operations;
(3) the conversion will be fair and equitable to the members of the association and no person whether member, employee or otherwise, will receive any inequitable gain or advantage by reason of the conversion;
(4) the savings and loan services provided to the public by the association will not be adversely affected by the conversion;
(5) the conversion will be conducted as provided by law and pursuant to a plan approved by the administrator. The substance of the plan must be approved by a vote of two-thirds of the board of directors of the
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association; and, after lawful notice to the members of the association and full and fair disclosure, the substance of the plan must be approved by a majority of the total votes which members of the association are eligible and entitled to cast. Such a vote by the members may be in person or by special proxy restricted to matters in connection with the conversion;

(6) the plan of conversion provides:
   a. all shares of stock issued in connection with the conversion are offered first to the members of the association;
   b. all stock shall be offered to members of the association and others in prescribed amounts and otherwise pursuant to a formula and procedure which is fair and equitable and will be fairly disclosed to all interested persons;
   c. members to whom stock will be offered and the amounts of stock which will be offered shall be determined as of a date or dates approved by the administrator;
   d. a statement as to whether stockholders shall have preemptive rights to acquire additional or treasury shares of the association and any provision limiting or denying said rights;
   e. at the time of the conversion, the number of shares which any person may acquire together with any associate or group of persons acting in concert shall not exceed five percent (5%) of the total number of shares offered. For purposes of this paragraph, the members of the converting institution’s board of directors shall not be deemed to be associates or a group acting in concert solely as a result of their board membership.
   f. at the time of the conversion, the total amount of stock acquired by officers and directors shall not exceed twenty-five percent (25%) of the total number of shares issued in connection with the conversion;
   g. the conversion shall not be complete until all stock offered in connection with the conversion has been subscribed.

(d) After approval of a requested conversion by the Commission, the administrator shall supervise and monitor the conversion process and he shall ensure that the conversion is conducted pursuant to law and the association’s approved plan of conversion.

(e) Upon conversion of a mutual association to the stock form of ownership, the legal existence of the association shall not terminate but the converted stock association shall be a continuation of the mutual association. The conversion shall be deemed a mere change in identity or form of organization. All rights, liabilities, obligations, interest and relations of whatever kind of the mutual association shall continue and remain in the stock-owned association. All actions and legal proceedings to which the association was a party prior to conversion shall be unaffected by the conversion and proceed as if the conversion had not taken place.

(f) The administrator shall promulgate rules and regulations to govern conversions; provided, however, that such rules and regulations as may be promulgated by the administrator shall be equal to or exceed the requirements for conversion imposed by the rules and regulations governing conversions of federal chartered mutual savings and loan associations of the Federal Home Loan Bank Board as set forth in the Federal Register, Vol. 44, No. 62,
Thursday, March 29, 1979, entitled 'Part 563b Conversion From Mutual to Stock Form' as these may be amended from time to time and other applicable rules and regulations effective as of the date of ratification. No provision of this section is to be interpreted to require Federal Savings and Loan Insurance Corporation (FSLIC) insurance of accounts as a prerequisite to conversion. All State associations are to continue to be allowed to choose between FSLIC and a mutual deposit guaranty association. Said rules and regulations shall implement the provisions of this section and provide procedures by which an association shall seek permission for a conversion and procedures for conducting conversions. Provided, however, the rules and regulations promulgated under this section shall apply equally to all converting associations and no converting association shall enjoy a competitive advantage over another type of converting association by reason of the rules and regulations governing its conversion; provided further, however, no association shall be required by the administrator or by regulation to change the type of insurance it maintains on its withdrawable accounts by reason of this section.

"§54B-34. Conversion of stock associations to mutual associations.—Any stock savings and loan association organized and operating under the provisions of this Chapter may, subject to the approval of the Commission, convert to a mutual savings and loan association under the provisions of this section. The administrator may promulgate rules and regulations governing the conversion of stock associations to mutual associations. Such rules and regulations shall include, but shall not be limited to requirements that:

1. the conversion neither impair the capital of the converting association nor adversely affect its operations;
2. the conversion shall be fair and equitable to all stockholders of the converting associations;
3. the public shall not be adversely affected by the conversion;
4. conversion of an association shall be accomplished only pursuant to a plan approved by the administrator. Said plan must have been approved by an affirmative vote of two-thirds of the members of the board of directors of the converting association, and only after a full and fair disclosure to the stockholders, by an affirmative vote a majority of the total votes which stockholders of the association are eligible and entitled to cast;
5. the plan of conversion provides that:
   a. withdrawable accounts be issued in connection with the conversion to the stockholders of the converting association;
   b. a uniform date be fixed for the determination of the stockholders to whom, and the amount to each stockholder of which, withdrawable accounts shall be made available;
   c. withdrawable accounts so made available to stockholders be based upon a fair and equitable formula approved by the administrator and fully and fairly disclosed to the stockholders of the converting association.

"§54B-35. Merger of like savings and loan associations.—Any two or more State mutual associations or any two or more State stock associations organized or operating, may merge or consolidate into a single association which may be either one of said merging associations, and the procedure to effect such merger shall be as follows:

1. The directors, or a majority of them, of such associations as desire to merge, may, at separate meetings, enter into a written agreement of merger
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signed by them and under the corporate seals of the respective associations, specifying each association to be merged and the association which is to receive into itself the merging association or associations, and prescribing the terms and conditions of the merger and the mode of carrying it into effect. Such merger agreement may provide the manner and basis of converting or exchanging the withdrawable accounts in the mutual association or associations so merged for withdrawable accounts of the same or a different class of the receiving association, or of converting or exchanging the stock in the stock association or associations so merged for stock of the same or a different class of the receiving association. The merger agreement may provide for such other provisions with respect to the merger as appear necessary or desirable, or as the administrator may require by regulation to enable him to discharge his duties with respect to such merger.

(2) Such merger agreement together with copies of the minutes of the meetings of the respective boards of directors verified by the secretaries of the respective associations shall be submitted to the administrator, who shall cause a careful investigation and examination to be made of the affairs of the associations proposing to merge, including a determination of their respective assets and liabilities. The reasonable cost and expenses of such examination shall be defrayed by each association so investigated and examined. If, as a result of such investigation, he shall conclude that the members or stockholders of each of the associations proposing to merge will be benefitted thereby, he shall, in writing, approve same. If he deems that the proposed merger will not be in the interest of all members or stockholders of the associations so merging, he shall, in writing, disapprove the same. If he approves the merger agreement, then same shall be submitted, within 30 days after notice to such associations of such approval, to the members or stockholders of each of such association, as provided in the next subdivision. Such disapproval may be appealed by the association to the Commission.

(3) A special meeting of the members or stockholders of each of said associations shall be held separately upon written notice to each member or stockholder of not less than 30 days, specifying the time, place, and purpose for which such meeting is called and such notice shall be served personally or sent by mail, postage prepaid, to each member or stockholder at the last known address of such member or stockholder appearing upon the books of the association. Due notice may also be given of the time, place and object of such meeting by publication at least once a week for four successive weeks in one or more newspapers published in the county or counties wherein each such association has its principal or a branch office (and if there is no newspaper published in the county then in a newspaper published in an adjoining county). The secretary or other officer of the association shall make proof by affidavit at such meeting of the due service of the notice or call for said meeting.

(4) At separate meetings of the members or stockholders representing a majority of the outstanding withdrawable accounts or shares of stock entitled to vote, by affirmative vote of at least two-thirds of the members or shares present, in person or by special proxy restricted to matters in connection with the merger, may declare by resolution the determination to merge into a single association upon terms of the merger as shall have been agreed upon by the directors of the respective associations and as approved by the administrator. An association may solicit special proxies, restricted to matters in connection
with mergers, which may be valid for up to twelve months and which may be
voted on for any proposed merger in which the association will be the surviving
association. Upon the adoption of the resolution, a copy of the minutes of the
proceedings of the meetings of the members or stockholders of the respective
associations, certified by the president or vice-president and secretary or
assistant secretary of the merging associations, shall be filed in the office of the
administrator, within 10 days after such meetings. Within 15 days after the
receipt of a certified copy of the minutes of said meetings the administrator
shall either approve or disapprove the proceedings for compliance with this
section. If the proceedings are approved by him he shall so endorse the certified
copy of the minutes in his office, and shall issue a certificate of his approval of
the merger and send same to each of the associations. The certificate shall be
filed and recorded in the office of the Secretary of State and in the office of the
register of deeds of the county or counties in this State in which the respective
associations so merged shall have their original certificates of incorporation
recorded; provided, that the only fees that shall be collected in connection with
the merger of said associations shall be filing and recording fees. When such
certificate is so filed, the merger agreement shall take effect according to its
terms and shall be binding upon all the members or stockholders of the
associations so merging, and the same shall thence be taken and deemed to be
the act of merger of such constituent savings and loan associations under the
laws of this State, and such record or certified copy thereof shall be evidence of
the agreement and act of merger of said savings and loan associations and the
observance and performance of all acts and conditions necessary to have been
observed and performed precedent to such merger. If the administrator shall
disapprove the proceedings he shall mark the certified copies of the meetings in
his office as disapproved and notify the associations to that effect. Such
disapproval may be appealed by the association to the Commission.

(5) Upon the merger of any association, as above provided, into another:

a. Its corporate existence shall be merged into that of the receiving
association; and all and singular its rights, powers, privileges and
franchises, and all of its property, including all right, title, interest in
and to all property of whatsoever kind, whether real, personal or mixed,
and things in action, and every right, privilege, interest or asset of any
conceivable value or benefit then existing, belonging or pertaining to it,
or which would inure to it under an unmerged existence, shall
immediately by act of law and without any conveyance or transfer, and
without any further act or deed, be vested in and become the property
of such receiving association which shall have, hold and enjoy the same
in its own right as fully and to the same extent as if the same were
possessed, held or enjoyed by the association or associations so merged;
and such receiving association shall absorb fully and completely the
association or associations so merged.

b. Its rights, liabilities, obligations and relations to any person shall remain
unchanged and the association into which it has been merged shall, by
the merger, succeed to all the relations, obligations and liabilities as
though it had itself assumed or incurred the same. No obligation or
liability of a member, customer or stockholder in an association which is
a party to the merger shall be affected by the merger, but obligations
and liabilities shall continue as they existed before the merger, unless otherwise provided in the merger agreement.

c. A pending action or other judicial proceeding to which any association that shall be so merged is a party, shall not be deemed to have abated or to have discontinued by reason of the merger, but may be prosecuted to final judgment, order or decree in the same manner as if the merger had not been made; or the receiving association may be substituted as a party to such action or proceeding, and any judgment, order or decree may be rendered for or against it that might have been rendered for or against such other association if the merger had not occurred.

"§ 54B-36. Merger of associations where ownership is converted.—(a) Any two or more State mutual associations organized or operating may merge to form a single State stock association. The procedure to effect such a merger and conversion of ownership shall be as follows:

1) The merging associations shall merge (to form a mutual association), as provided under G.S. 54B-35.

2) The surviving association shall then convert to a stock association, as provided under G.S. 54B-33.

(b) Any two or more State stock associations organized or operating may merge to form a single mutual association. The procedure to effect such a merger and conversion of ownership shall be as follows:

1) The merging associations shall merge (to form a stock association), as provided under G.S. 54B-35.

2) The surviving association shall then convert to a mutual association, as provided under G.S. 54B-34.

(c) The administrator may promulgate rules and regulations to facilitate the transition from two or more associations to a single association under a new form of ownership.

"§ 54B-37. Merger of mutual and stock associations.—(a) Any State mutual association and any State stock association, organized or operating, may merge to form a single stock association. The procedure to effect such a merger shall be as follows:

1) The mutual association involved shall convert separately to a stock association, as provided under G.S. 54B-33.

2) The two stock associations shall then merge to form a single stock association, as provided in G.S. 54B-35.

(b) Any State mutual association, and any State stock association organized or operating may merge to form a mutual association. The procedure to effect such merger shall be as follows:

1) The stock association involved shall convert separately to a mutual association, as provided under G.S. 54B-34.

2) The two mutual associations shall then merge to form a single mutual association, as provided in G.S. 54B-35.

(c) The administrator is hereby empowered to promulgate rules and regulations to facilitate such a merger of mutual with stock associations.

"§ 54B-38. Merger through stock acquisition.—The Administrator may approve a plan by which an association may hold stock of other associations for the purpose of facilitating a merger of the associations. Such holding shall not exceed a period of one year from date of approval. If the merger is not consummated within the year, the holding association shall divest itself of all
such stock within six months. The holding association may vote the stock only on matters relating to the merger.

"§ 54B-39. Merger of federal with State associations.—(a) Any two or more savings associations, when one or more is a State association and when one or more is a federal association operating in North Carolina, may merge to form one association under either a State or federal charter. The procedure to effect such a merger when the result is to be a federal association shall be as follows:

(1) The State association or associations involved shall convert to a federal charter or charters, as provided under G.S. 54B-30.

(2) The resulting federal association or associations shall then merge with the previously existing federal association or associations under the provisions of federal law and the rules and regulations of the Federal Home Loan Bank Board.

(b) The procedure to effect such a merger when the result is to be a State association shall be as follows:

(1) The federal association or associations involved shall convert to a State charter or charters, as provided under G.S. 54B-31.

(2) The resulting State association or associations shall then merge with the previously existing State association or associations, as provided under G.S. 54B-35.

(c) The administrator may promulgate rules and regulations to facilitate the merger of State and federal savings and loan associations.

"§ 54B-40. Voluntary dissolution by directors.—A State association may be voluntarily dissolved by a majority vote of the board of directors as provided in subsection (a) of G.S. 55-116, and when a certificate of dissolution is recorded in the manner required by this Chapter for the recording of certificates of incorporation.

"§ 54B-41. Voluntary dissolution by stockholders or members.—At any annual or special meeting called for such purpose, an association may, by an affirmative vote in person or by proxy of at least two-thirds of the total number of shares or votes which all members or stockholders of the association are entitled to cast, resolve to dissolve and liquidate the association and adopt a plan of voluntary dissolution. Upon adoption of such resolution and plan of voluntary dissolution, the members or stockholders shall proceed to elect not more than three liquidators who shall post bond as required by the administrator. The liquidators shall have full power to execute the plan; and the procedure thereafter shall be as follows:

(1) A copy of the resolution certified by the president or secretary of the association, together with the minutes of the meeting of members or stockholders, the plan of liquidation, and an itemized statement of the association’s assets and liabilities sworn to by a majority of its board of directors, shall be filed with the administrator. The minutes of the meeting of members or stockholders shall be certified by the president or secretary of the association, and shall set forth the notice given and the time of mailing thereof, the vote on the resolution and the total number of shares or votes which all members of the association were entitled to cast thereon, and the names of the liquidators elected.

(2) If the administrator finds that the proceedings are in accordance with the provisions of this Chapter, and that the plan of liquidation is not unfair to any person affected, he shall attach his certificate of approval
to the plan and shall forward one copy to the liquidators and one copy to the association's withdrawable account insurance corporation. Once the administrator has approved the resolution and the plan of liquidation it shall thereafter be unlawful for such association to accept any additional withdrawable accounts or additions to withdrawable accounts or make any additional loans, but all its income and receipts in excess of actual expenses of liquidation of the association shall be applied to the discharge of its liabilities.

(3) The liquidator or liquidators so appointed shall be paid a reasonable compensation by the liquidating association subject to the approval of the administrator.

(4) The plan shall become effective upon the recording of the administrator's certificate of approval in the manner required by this Chapter for the recording of the certificate of incorporation.

(5) The liquidation of the association shall be subject to the supervision and examination of the administrator.

"§ 54B-42. Rules, regulations and reports of voluntary dissolution.—(a) The administrator shall promulgate rules and regulations governing the dissolution and liquidation of State associations. These rules and regulations shall include, but not be limited to, provisions with respect to:

(1) the protection and liquidation of assets;
(2) the plan of liquidation;
(3) notice to file claims;
(4) claims of members;
(5) payments of claims and distribution; and
(6) final distribution and liquidation.

(b) Upon completion of liquidation, the liquidators shall file with the administrator a final report and accounting of the liquidation. The approval of the report by the administrator shall operate as a complete and final discharge of the liquidators, the board of directors, and each member or stockholder in connection with the liquidation of such association. Upon approval of the report, the administrator shall issue a certificate of dissolution of the association and shall record same in the manner required by this Chapter for the recording of certificates of incorporation; and upon such recording, the dissolution shall be effective.

"§ 54B-43. Stock ownership restrictions and dividends.—(a) Not more than ten percent (10%) of the outstanding capital stock of a State stock association may be owned by a person either singly or in combination with an associate.

(b) If, as of the effective date of this section, or at any time thereafter, a stockholder owns, singly or in combination with an associate, an amount in excess of ten percent (10%) of the outstanding capital stock of a stock association, the association shall notify the administrator within 10 days of determination of this fact.

(c) Except as otherwise provided in this Chapter, no bank, State or federal association, credit union or other person, firm or corporation doing a banking business (receiving, soliciting or accepting money or its equivalent on deposit as a business) shall own stock in a stock association. Notwithstanding any other provision of this Chapter, a corporate trustee shall be permitted to hold legal ownership of stock in a stock association when such stock constitutes all or a portion of the corpus of a trust.
(d) No dividends on stock shall be paid unless the association has the approval of the administrator.

§ 54B-44 to § 54B-51. Reserved for future codification purposes.

"ARTICLE 4.

"Supervision and Regulation.

"§ 54B-52. Administrator of Savings and Loan Division.—The Administrator of the Savings and Loan Division of the State is hereby empowered and directed to perform all the duties and exercise all the powers as to savings and loan associations organized or operated under this Chapter, unless herein otherwise provided.

"§ 54B-53. Savings and Loan Commission.—(a) The Savings and Loan Commission, which has heretofore been created, shall continue to exist and the seven members of the Savings and Loan Commission who have heretofore been appointed by the Governor shall continue to serve their full terms and their successors shall be appointed by the Governor as required by this section. The Governor shall on July 1, 1981, appoint three persons to the Commission for four-year terms. On July 1, 1983, he shall appoint two persons to the Commission for three-year terms, and two persons for four-year terms. All appointments to the Commission thereafter shall be for four-year terms. Any vacancy on the Commission shall be filled by the Governor for the unexpired term. A newly appointed Commissioner shall assume office at the first regular or special meeting subsequent to his appointment.

(b) The members of the Commission shall elect one of their number to serve as chairman of the Commission for such term as set forth in rules adopted by the Commission. A vice-chairman and other officers may be elected as specified by the Commission.

(c) The term of a Commissioner shall be four years, or until his successor is appointed and qualified.

(d) At least two members of the Commission shall be persons who are currently serving as managing officers of State associations. Four members of the Commission shall be appointed as representatives of the borrowing public and shall not be employees of or directors of any financial institution or have an interest in any financial institution other than as a result of being a depositor or borrower.

(e) Meetings of the Commission shall be held regularly as provided in rules adopted by the Commission but no less than once each calendar quarter. Special meetings shall be held at any time upon the call of the chairman, or upon the call of any three Commissioners. The administrator shall call meetings when consideration by the Commission is required by law for contemplated action of the administrator. Members of the Commission shall be reimbursed as prescribed by law for expenses incurred in the performance of their duties under this section.

(f) The relationship between the Secretary of Commerce and the Savings and Loan Commission shall be as defined for a Type II transfer under Article 143A of the General Statutes.

(g) The Savings and Loan Commission is hereby vested with full power and authority to review, approve, disapprove, or modify any action taken by the administrator in the exercise of all powers, duties and functions vested in or exercised by the administrator under the savings and loan laws of this State.
"§ 54B-54. Deputy administrator of Savings and Loan Division.—(a) There shall be a deputy administrator of the Savings and Loan Division who, in the event of the absence, death, resignation, disability or disqualification of the administrator, or in case the office of administrator shall for any reason become vacant, shall have and exercise all the powers and duties vested by law in the administrator.

(b) The deputy administrator is authorized and empowered at any and all times to perform such duties and exercise such powers of the administrator as the administrator may direct.

"§ 54B-55. Power of administrator to promulgate rules and regulations; reproduction of records.—(a) The administrator shall have the right, and is empowered, to promulgate rules, instructions and regulations as may be necessary to the discharge of his duties and powers as to savings and loan associations for the supervision and regulation of said associations, and for the protection of the public investing in said savings and loan associations.

(b) Without limiting the generality of the foregoing paragraph, rules, instructions, and regulations may be promulgated with respect to:

1. reserve requirements;
2. stock ownership and dividends;
3. stock transfers;
4. incorporators, stockholders, directors, officers and employees of an association;
5. bylaws
6. the Savings and Loan Commission;
7. the structure of the office of the administrator;
8. the operation of associations;
9. withdrawable accounts, bonus plans, and contracts for savings programs;
10. loans and loan expenses;
11. investments;
12. forms and definitions;
13. types of financial records to be maintained by associations;
14. retention periods of various financial records;
15. internal control procedures of associations;
16. conduct and management of associations;
17. chartering and branching;
18. liquidations;
19. mergers;
20. conversions;
21. reports which may be required by the administrator;
22. conflicts of interest;
23. collection of State savings and loan taxes;
24. service corporations; and
25. savings and loan holding companies.

(c) In order to supervise the continuing operation of stock associations, the administrator shall promulgate rules to ensure the compliance by such associations.

(d) Any association may cause any or all records by it to be recorded, copied or reproduced by any photographic, photostatic or miniature photographic process which correctly, accurately, permanently copies, reproduces or forms a medium
for copying or reproducing the original record on a film or other durable material.

(e) Any such photographic, photostatic or miniature photographic copy or reproduction shall be deemed to be an original record in all courts and administrative agencies for the purpose of its admissibility in evidence. A facsimile, exemplification or certified copy of any such photographic copy or reproduction shall, for all purposes, be deemed a facsimile, exemplification or certified copy of the original record.

(f) The provisions of this section with reference to the retention and disposition of records shall apply to any federal savings and loan association operating in North Carolina unless in conflict with regulations prescribed by its supervisory authority.

§54B-56. Examinations by administrator; report.—(a) If at any time the administrator deems it prudent, it shall be his duty to examine and investigate everything relating to the business of a State association or a savings and loan holding company, and to appoint a suitable and competent person to make such investigation, who shall file with the administrator a full report of his finding in such case, including in his report any violation of law or any unauthorized or unsafe practices of the association disclosed by his examination.

(b) The administrator shall furnish a copy of the report to the association examined and may, upon request, furnish a copy of or excerpts from the report to the Federal Home Loan Bank Board, a Federal Home Loan Bank, any mutual deposit guaranty association organized and operated under the provisions of Article 12 of this Chapter, or the Federal Savings and Loan Insurance Corporation or its successor.

(c) No association may willfully delay or willfully obstruct an examination in any fashion. Any person failing to comply with this subsection shall be guilty of a misdemeanor.

(d) No person having in his possession or control any books, accounts or papers of any State association shall refuse to exhibit same to the administrator or his agents on demand, or shall knowingly or willingly make any false statement in regard to the same. Any person failing to comply with this subsection shall be guilty of a misdemeanor.

§54B-57. Supervision and examination fees.—(a) Every State association, including associations in process of voluntary liquidation or savings and loan holding company, shall pay into the office of the administrator each July a supervisory fee. Examination fees shall be paid promptly upon an association’s receipt of the examination billing. The administrator, subject to the advice and consent of the Commission, shall, on or before June 1 of each year:

(1) determine and fix the scale of supervisory and examination fees to be assessed and collected during the next fiscal year;
(2) determine and fix the amount of the fee and set the fee collection schedule for the fees to be assessed to and collected from applicants to defray the cost of processing their charter, branch, merger, conversion, location change and name change applications and all fees associated with foreign associations.

(b) All funds and revenue collected by the Division under the provisions of this section and the provisions of all other sections of this Chapter which authorize the collection of fees and other funds shall be deposited with the State Treasurer of North Carolina and expended under the terms of the
Executive Budget Act, solely to defray expenses incurred by the office of the administrator in carrying out its supervisory and auditing functions.

(c) Notwithstanding any of the provisions of subsections (a) and (b) of this section, whenever the administrator under the provisions of G.S. 54B-56 appoints a suitable and competent person, other than a person employed by the administrator's office, to make an examination and investigation of the business of a State association, all costs and expenses relative to such examination and investigation shall be paid by such association.

"§ 54B-58. Prolonged audit, examination or revaluation; payment of costs.—
(a) If, in the opinion of the administrator, an examination conducted under the provisions of G.S. 54B-57 fails to disclose the complete financial condition of an association, he may in order to ascertain its complete financial condition:

(1) make an extended audit or examination of the association or cause such audit or examination to be made by an independent auditor;

(2) make an extended revaluation of any of the assets or liabilities of the association or cause an independent appraiser to make such revaluation.

(b) The administrator shall collect from the association a reasonable sum for actual or necessary expenses of such an audit, examination or revaluation.

"§ 54B-59. Cease and desist orders.—(a) If any person or association is engaging in, or has engaged in, any unsafe or unsound practice or unfair and discriminatory practice in conducting the association's business, or of any other law, rule, regulation, order or condition imposed in writing by the administrator, the administrator may issue a notice of charges to such person or association. A notice of charges shall specify the acts alleged to sustain a cease and desist order, and state the time and place at which a hearing shall be held. A hearing before the Commission on the charges shall be held no earlier than seven days, and no later than 14 days after issuance of the notice. The charged institution is entitled to a further extension of seven days upon filing a request with the administrator. The administrator may also issue a notice of charges if he has reasonable grounds to believe that any person or association is about to engage in any unsafe or unsound business practice, or any violation of this Chapter, or any other law, rule, regulation or order. If, by a preponderance of the evidence, it is shown that any person or association is engaged in, or has been engaged in, or is about to engage in, any unsafe or unsound business practice, or unfair and discriminatory practice or any violation of this Chapter, or any other law, rule, regulation, or order, a cease and desist order shall be issued. The Commission may issue a temporary cease and desist order to be effective for 14 days and may be extended once for a period of 14 days.

(b) If any person or State association is engaging in, has engaged in, or is about to engage in any unsafe or unsound practice in conducting the association's business, or any violation of this Chapter or of any other law, rules, regulation, order, or condition imposed in writing by the administrator, and the administrator has determined that immediate corrective action is required, the administrator may issue a temporary cease and desist order. A temporary cease and desist order shall be effective immediately upon issuance for a period of 14 days, and may be extended once for a period of 14 days. Such an order shall state its duration on its face and the words, 'Temporary Cease and Desist Order'. A hearing before the Commission shall be held within such time as such an order remains effective, at which time a temporary order may be dissolved or made permanent.

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“§ 54B-60. Administrator to have right of access to books and records of association; right to issue subpoenas, administer oaths, examine witnesses.—(a) The administrator and his agents:

(1) shall have free access to all books and records of an association, or a service corporation thereof, that relate to its business, and the books and records kept by an officer, agent or employee relating to or upon which any record is kept;

(2) may subpoena witnesses and administer oaths or affirmations in the examination of any director, officer, agent, or employee of an association, or a service corporation thereof or of any other person in relation to its affairs, transactions and conditions;

(3) may require the production of records, books, papers, contracts and other documents; and

(4) may order that improper entries be corrected on the books and records of an association.

(b) The administrator may issue subpoenas duces tecum.

(c) If a person fails to comply with a subpoena so issued or a party or witness refuses to testify on any matters, a court of competent jurisdiction, on the application of the administrator, shall compel compliance by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify in such court.

“§ 54B-61. Test appraisals of collateral for loans; expense paid.—(a) The administrator may direct the making of test appraisals of real estate and other collateral securing loans made by associations doing business in this State, employ competent appraisers, or prescribe a list from which competent appraisers may be selected, for the making of such appraisals by the administrator, and do any and all other acts incident to the making of such test appraisals.

(b) In lieu of causing such appraisals to be made, the administrator may accept an appraisal caused to be made by a Federal Home Loan Bank, the Federal Home Loan Bank Board or by the Federal Savings and Loan Insurance Corporation or any mutual deposit guaranty association organized and operating under the provisions of Article 12 of this Chapter.

(c) The expense and cost of test appraisals made pursuant to this section shall be defrayed by the association subjected to such test appraisals, and each association doing business in this State shall pay all reasonable costs and expenses of such test appraisals when it shall be directed.

“§ 54B-62. Relationship of savings and loan associations with the Savings and Loan Division.—(a) Except as provided by subsection (b) of this section, a savings and loan association or any director, officer, employee, or representative thereof shall not grant or give to the administrator or to any employee of the administrator’s office, or to their spouses, any loan or gratuity, directly or indirectly.

(b) Neither the administrator nor any person on the staff of the Savings and Loan Division shall:

(1) hold an office or position in any State association or exercise any right to vote on any State association matter by reason of being a member of the association;

(2) be interested, directly or indirectly in any savings and loan association organized under the laws of this State; or
(3) undertake any indebtedness, as a borrower directly or indirectly or endorser, surety or guarantor, or sell or otherwise dispose of any loan or investment to any savings and loan association organized under the laws of this State.

(c) Notwithstanding subsection (b) of this section, the administrator or any other person employed in or by his office may be a withdrawable account holder and receive earnings on such account.

(d) If the administrator or other person has any prohibited right or interest in a savings and loan association, either directly or indirectly, at the time of his appointment or employment, he shall dispose of it within 60 days after the date of his appointment, or employment. If the administrator or other such person is indebted as borrower directly or indirectly, or is an endorser, surety or guarantor on a note, at the time of his appointment or employment, he may continue in such capacity until such loan is paid off.

"§ 54B-63. Confidential information.—(a) The following records or information of the Commission, the administrator or the agent(s) of either shall be confidential and shall not be disclosed:

(1) information obtained or compiled in preparation of or anticipation of, or during an examination, audit or investigation of any association;
(2) information reflecting the specific collateral given by a named borrower, the specific amount of stock owned by a named stockholder, or specific withdrawable accounts held by a named member or customer;
(3) information obtained, prepared or compiled during or as a result of an examination, audit or investigation of any association by an agency of the United States, if the records would be confidential under federal law or regulation;
(4) information and reports submitted by associations to federal regulatory agencies, if the records or information would be confidential under federal law or regulation;
(5) information and records regarding complaints from the public received by the division which concern associations when the complaint would or could result in an investigation, except to the management of those associations;
(6) any other letters, reports, memoranda, recordings, charts or other documents or records which would disclose any information of which disclosure is prohibited in this subsection.

(b) A court of competent jurisdiction may order the disclosure of specific information.

(c) The information contained in an application shall be deemed to be public information. Disclosure shall not extend to the financial statement of the incorporators nor to any further information deemed by the administrator to be confidential.

(d) Nothing in this section shall prevent the exchange of information relating to associations and the business thereof with the representatives of the agencies of this State, other states, or of the United States, or with reserve or insuring agencies for associations. The private business and affairs of an individual or company shall not be disclosed by any person employed by the Savings and Loan Division, any member of the Commission, or by any person with whom information is exchanged under the authority of this subsection.
(e) Any official or employee violating this section shall be liable to any person injured by disclosure of such confidential information for all damages sustained thereby. Penalties provided shall not be exclusive of other penalties.

§54B-64. Civil penalties; State associations.—(a) Except as otherwise provided in this Article, any association which is found to have violated any provision of this Article may be ordered to forfeit and pay a civil penalty of up to twenty thousand dollars ($20,000). Any association which is found to have violated or failed to comply with any cease and desist order issued under the authority of this Article may be ordered to forfeit or pay a civil penalty of up to twenty thousand dollars ($20,000) for each day that the violation or failure to comply continues.

(b) To enforce the provisions of this section, the administrator is authorized to assess such a penalty and to appear in a court of competent jurisdiction and to move the court to order payment of the penalty. Prior to the assessment of the penalty, a hearing shall be held by the administrator which shall comply with the provisions of Article 3 of Chapter 150A of the General Statutes.

(c) If the administrator determines that, as a result of a violation of any provision of this Article, or of a failure to comply with any cease and desist order issued under the authority of this Article, a situation exists requiring immediate corrective action, the administrator may impose the civil penalty in this section on the association without a prior hearing, and said penalty shall be effective as of the date of notice to the association. Imposition of such penalty may be directly appealed to the Wake County Superior Court.

(d) Nothing in this section shall prevent anyone damaged by a State association from bringing a separate cause of action in a court of competent jurisdiction.

§54B-65. Civil penalties; directors, officers and employees.—(a) Any person, whether a director, officer or employee, who is found to have violated any provision of this Article, whether willfully or as a result of gross negligence, gross incompetency, or recklessness, may be ordered to forfeit and pay a civil penalty of up to five thousand dollars ($5,000) per violation. Any person who is found to have violated or failed to comply with any cease and desist order issued under the authority of this Article, may be ordered to forfeit and pay a civil penalty of up to five thousand dollars ($5,000) per violation for each day that the violation or failure to comply continues.

(b) To enforce the provisions of this section, the administrator is authorized to assess such a penalty and to appear in a court of competent jurisdiction and to move the court to order payment of the penalty. Prior to the assessment of the penalty, a hearing shall be held by the administrator which shall comply with the provisions of Article 3 of Chapter 150A of the General Statutes.

(c) Whenever the administrator shall determine that an emergency exists which requires immediate corrective action, the administrator, either before or after instituting any other action or proceeding authorized by this Article, may request the Attorney General to institute a civil action in a court of competent jurisdiction, in the name of the State upon the relation of the administrator seeking injunctive relief to restrain or enjoin the violation or threatened violation of this Article and for such other and further relief as the court may deem proper. Instituting an action for injunctive relief shall not relieve any party to such proceedings from any civil or criminal penalty prescribed for violation of this Article.
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(d) Nothing in this section shall prevent anyone damaged by a director, officer or employee of a State association from bringing a separate cause of action in a court of competent jurisdiction.

"§ 54B-66. Criminal penalties.—(a) The provisions of this section shall in no event extend to persons who are found to have acted only with gross negligence, simple negligence, recklessness or incompetence.

(b) In addition to any of the other penalties or remedies provided by this Article, the following shall be deemed to be misdemeanors and shall be punishable as provided in Chapter 14 of the North Carolina General Statutes:

(1) The willful or knowing violation of the provisions of this Article by any employee of the Savings and Loan Division.

(2) The willful or knowing violation of a cease and desist order which has become final in that no further administrative or judicial appeal is available.

(c) In addition to any of the other penalties or remedies provided by this Article, the willful omission, making, or concurrence in making or publishing a written report, exhibit, or entry in a financial statement on the books of the association, which contains a material statement known to be false shall be deemed to be a misdemeanor and shall be punishable as provided in Chapter 14 of the North Carolina General Statutes. For purposes of this section, 'material' shall mean 'so substantial and important as to influence a reasonable and prudent businessman or investor'.

(d) The administrator is authorized to enforce this section in a court of competent jurisdiction.

"§ 54B-67. Primary jurisdiction.—Whenever an agency of the United States Government shall defer to the administrator, or notify the administrator of pending action against an association chartered by this State or fail to exercise its authority over any State or federally chartered association doing business in this State, the administrator shall have the authority to exercise jurisdiction over such association.

"§ 54B-68. Supervisory control.—(a) Whenever the administrator determines that an association is conducting its business in an unsafe or unsound manner or in any fashion which threatens the financial integrity or sound operation of the association, the administrator may serve a notice of charges on the association, requiring it to show cause why it should not be placed under supervisory control. Such notice of charges shall specify the grounds for supervisory control, and set the time and place for a hearing. A hearing before the Commission pursuant to such notice shall be held within 15 days after issuance of the notice of charges, and shall comply with the provisions of Article 3 of Chapter 150A of the General Statutes.

(b) If, after the hearing provided above, Commission determines that supervisory control of the association is necessary to protect the association’s members, customers, stockholders or creditors, or the general public, the administrator shall issue an order taking supervisory control of the association. An appeal may be filed in the Wake County Superior Court.

(c) If the order taking supervisory control becomes final, the administrator may appoint an agent to supervise and monitor the operations of the association during the period of supervisory control. During the period of supervisory control, the association shall act in accordance with such instructions and directions as may be given by the administrator directly or through his
supervisory agent and shall not act or fail to act except when to do so would violate an outstanding cease and desist order.

(d) Within 180 days of the date the order taking supervisory control becomes final, the administrator shall issue an order approving a plan for the termination of supervisory control. The plan may provide for:

(1) the issuance by the association of capital stock;
(2) the appointment of one or more officers and/or directors;
(3) the reorganization, merger, or consolidation of the association;
(4) the dissolution and liquidation of the association.

The order approving the plan shall not take effect for 30 days during which time period an appeal may be filed in the Wake County Superior Court.

(e) The costs incident to this proceeding shall be paid by the association, provided such costs are found to be reasonable.

(1) For the purposes of this section, an order shall be deemed final if:

(1) no appeal is filed within the specific time allowed for the appeal, or
(2) after all judicial appeals are exhausted.

§ 54B-69. Removal of directors, officers and employees.—(a) If, in the administrator's opinion, one or more directors, officers or employees of any association has participated in or consented to any violation of this Chapter, or any other law, rule, regulation or order, or any unsafe or unsound business practice in the operation of any association; or any insider loan not specifically authorized by or pursuant to this Chapter; or any repeated violation of or failure to comply with any association's bylaws, the administrator may serve a written notice of charges upon the director, officer or employee in question, and the association, stating his intent to remove said director, officer or employee. Such notice shall specify the conduct and place for the hearing before the Commission to be held. A hearing shall be held no earlier than 15 days and no later than 30 days after the notice of charges is served, and it shall comply with the provisions of Article 3 of Chapter 150A of the General Statutes. If, after the hearing, the Commission determines that the charges asserted have been proven by a preponderance of the evidence, the administrator may issue an order removing the director, officer or employee in question. Such an order shall be effective upon issuance and may include the entire board of directors or all of the officers of the association.

(b) If it is determined that any director, officer or employee of any association has knowingly participated in or consented to any violation of this Chapter, or any other law, rule, regulation or order, or engaged in any unsafe or unsound business practice in the operation of any association, or any repeated violation of or failure to comply with any association's bylaws, and that as a result, a situation exists requiring immediate corrective action, the administrator may issue an order temporarily removing such person or persons pending a hearing. Such an order shall state its duration on its face and the words, "Temporary Order of Removal", and shall be effective upon issuance, for a period of 15 days, and may be extended once for a period of 15 days. A hearing must be held within 10 days of the expiration of a temporary order, or any extension thereof, at which time a temporary order may be dissolved or converted to a permanent order.

(c) Any removal pursuant to Subsections (a) or (b) of this section shall be effective in all respects as if such removal had been made by the board of directors, the members or the stockholders of the association in question.

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(d) Without the prior written approval of the administrator, no director, officer or employee permanently removed pursuant to this section shall be eligible to be elected, reelected or appointed to any position as a director, officer or employee of that association, nor shall such a director, officer or employee be eligible to be elected to or retain a position as a director, officer or employee of any other State association.

"§54B-70. Involuntary liquidation.—(a) The administrator with prior approval of the Commission may take custody of the books, records and assets of every kind and character of any association organized and operated under the provisions of this Chapter for any of the purposes hereinafter enumerated, if it reasonably appears from examinations or from reports made to the administrator that:

1. the directors, officers, or liquidators have neglected, failed or refused to take such action which the administrator may deem necessary for the protection of the association, or have impeded or obstructed an examination; or

2. the withdrawable capital of the association is impaired to the extent that the realizable value of its assets is insufficient to pay in full its creditors and holders of withdrawable accounts; or its liquidity fund or General Reserve Account is impaired; or

3. the business of the association is being conducted in a fraudulent, illegal or unsafe manner, or that the association is in an unsafe or unsound condition to transact business; (any association which, except as authorized in writing by the administrator, fails to make full payment of any withdrawal when due is in an unsafe or unsound condition to transact business, notwithstanding such provisions of the certificate of incorporation or such statutes or regulations with respect to payment of withdrawals in event an association does not pay all withdrawals in full); or

4. the officers, directors, or employees have assumed duties or performed acts in excess of those authorized by statute or regulation or charter, or without supplying the required bond; or,

5. the association has experienced a substantial dissipation of assets or earnings due to any violation or violations of statute or regulation, or due to any unsafe or unsound practice or practices; or

6. the association is insolvent, or is in imminent danger of insolvency or has suspended its ordinary business transactions due to insufficient funds; or

7. the association is unable to continue operations.

(b) Unless the administrator finds that such an emergency exists which may result in loss to members, withdrawable account holders, stockholders, or creditors, and which requires that he take custody immediately, he shall first give written notice to the directors and officers specifying the conditions criticized and allowing a reasonable time in which corrections may be made before a receiver shall be appointed as outlined in subsection (d) below.

(c) The purposes for which the administrator may take custody of an association include examination or further examination; conservation of its assets; restoration of impaired capital; the making of any reasonable or equitable adjustment deemed necessary by the administrator under any plan of reorganization.
(d) If the administrator after taking custody of an association, finds that one or more of the reasons for having taken custody continue to exist through the period of his custody, with little or no likelihood of amelioration of the situation, then he shall appoint as receiver or co-receiver any qualified person, firm or corporation for the purpose of liquidation of the association, which receiver shall furnish bond in form, amount and with surety as the administrator may require. The administrator may appoint the association's withdrawable account insurance corporation or its nominee as the receiver, and such insuring corporation shall be permitted to serve without posting bond.

(e) In the event the administrator appoints a receiver for an association, he shall mail a certified copy of the appointment order by certified mail to the address of the association as it shall appear on the records of the Division, and to any previous receiver or other legal custodian of the association, and to any court or other authority to which such previous receiver or other legal custodian is subject. Notice of such appointment shall be published in a newspaper of general circulation in the county where such association has its principal office.

(f) Whenever a receiver for an association is appointed pursuant to subsection (d) above the association may within 30 days thereafter bring an action in the Superior Court of Wake County, for an order requiring the administrator to remove such receiver.

(g) The duly appointed and qualified receiver shall take possession promptly of the association for which he or it has been so appointed, in accordance with the terms of such appointment, by service of a certified copy of the administrator's appointment order upon the association at its principal office through the officer or employee who is present and appears to be in charge. Immediately upon taking possession of the association, the receiver shall take possession and title to books, records and assets of every description of such association. The receiver, by operation of law and without any conveyance or other instrument, act or deed, shall succeed to all the rights, titles, powers and privileges of the association, its members or stockholders, holders of withdrawable accounts, its officers and directors or any of them; and to the titles to the books, records and assets of every description of any previous receiver or other legal custodian of such association. Such members, stockholders, holders of withdrawable accounts, officers or directors, or any of them, shall not thereafter, except as hereinafter expressly provided, have or exercise any such rights, powers or privileges or act in connection with any assets or property of any nature of the association in receivership: Provided however, that any officer, director, member, stockholder, withdrawable account holder, or borrower of such association shall have the right to communicate with the administrator with respect to such receivership. The administrator, with the approval of the Commission, may at any time, direct the receiver to return the association to its previous or a newly constituted management. The administrator may provide for a meeting or meetings of the members or stockholders for any purpose, including, without any limitation on the generality of the foregoing, the election of directors or an increase in the number of directors, or both, or the election of an entire new board of directors; and may provide for a meeting or meetings of the directors for any purpose including, without any limitation on the generality of the foregoing, the filling of vacancies on the board, the removal of officers and the election of new
officers, or for any of such purposes. Any such meeting of members or stockholders, or of directors, shall be supervised or conducted by a representative of the administrator.

(h) A duly appointed and qualified receiver shall have power and authority to:

(1) demand, sue for, collect, receive and take into his possession all the goods and chattels, rights and credits, moneys and effects, lands and tenements, books, papers, choses in action, bills, notes, and property of every description of the association;
(2) foreclose mortgages, deeds of trust, and other liens executed to the association to the extent the association would have had such right;
(3) institute suits for the recovery of any estate, property, damages, or demands existing in favor of the association, and he shall, upon his own application, be substituted as party plaintiff in the place of the association in any suit or proceeding pending at the time of his appointment;
(4) sell, convey, and assign all the property rights and interest owned by the association;
(5) appoint agents to serve at his pleasure;
(6) examine and investigate papers and persons, and pass on claims as provided in the regulations as prescribed by the administrator;
(7) make and carry out agreements with the insuring corporation or with any other financial institution for the payment or assumption of the association liabilities, in whole or in part, and to sell, convey, transfer, pledge, or assign assets as security or otherwise and to make guarantees in connection therewith; and
(8) perform all other acts which might be done by the employees, officers and directors.

Such powers shall be continued in effect until liquidation and dissolution or until return of the association to its prior or newly constituted management.

(i) A receiver may at any time during the receivership and prior to final liquidation be removed and a replacement appointed by the administrator.

(j) The administrator may determine that such liquidation proceedings should be discontinued. He shall then remove the receiver and restore all the rights, powers, and privileges of its members and stockholders, customers, employees, officers and directors, or restore such rights, powers, and privileges to its members, stockholders and customers, and grant such rights, powers and privileges to a newly constituted management, all as of the time of such restoration of the association to its management unless another time for such restoration shall be specified by the administrator. The return of an association to its management or to a newly constituted management from the possession of a receiver shall, by operation of law and without any conveyance or other instrument, act or deed, vest in such association the title to all property held by the receiver in his capacity as receiver for such association.

(k) A receiver may also be appointed under the authority of G.S. 1-502. No judge or court, however, shall appoint a receiver for any State association unless five days' advance notice of the motion, petition or application for appointment of a receiver shall have been given to such association and to the administrator.

(l) Following the appointment of a receiver, the administrator shall request the Attorney General to institute an action in the name of the administrator in
the superior court against the association for the orderly liquidation and dissolution of the association, and for an injunction to restrain the officers, directors and employees from continuing the operation of the association.

(m) Claims against a State association in receivership shall have the following order of priority for payment:

1. costs, expenses and debts of the association incurred on or after the date of the appointment of the receiver, including compensation for the receiver;
2. claims of general creditors;
3. claims of holders of special purpose or thrift accounts;
4. claims of holders of withdrawable accounts;
5. claims of stockholders of a stock association;
6. all remaining assets to members and stockholders in an amount proportionate to their holdings as of the date of the appointment of the receiver.

(n) All claims of each class described within subsection (m) above shall be paid in full so long as sufficient assets remain. Members of the class for which the receiver cannot make payment in full because assets will be depleted during payment to such class shall be paid an amount proportionate to their total claims.

(o) The administrator shall have the authority to direct the payment of claims for which no provision is herein made, and may direct the payment of claims within a class. The administrator shall have the authority to promulgate rules and regulations governing the payment of claims by an association in receivership.

(p) When all assets of the association have been fully liquidated, and all claims and expenses have been paid or settled, and the receiver shall recommend a final distribution, the dissolution of the association in receivership shall be accomplished in the following manner:

1. The receiver shall file with the administrator a detailed report, in a form to be prescribed by the administrator, of his acts and proposed final distribution, and dissolution.
2. Upon the administrator's approval of the final report of the receiver, the receiver shall provide such notice and thereafter shall make such final distribution, in such manner as the administrator may direct.
3. When a final distribution has been made except as to any unclaimed funds, the receiver shall deposit such unclaimed funds with the administrator and shall deliver to the administrator all books and records of the dissolved association.
4. Upon completion of the foregoing procedure, and upon the joint petition of the administrator and receiver to the superior court, the court may find that the association should be dissolved, and following such publication of notice of dissolution as the court may direct, the court may enter a decree of final resolution and the association shall thereby be dissolved.
5. Upon final dissolution of the association in receivership or at such time as the receiver shall be otherwise relieved of his duties, the administrator shall cause an audit to be conducted, during which the receiver shall be available to assist in such. The accounts of the receiver shall then be ruled upon by the administrator and Commission and if
approved, the receiver shall thereupon be given a final and complete discharge and release.

"§ 54B-71. Judicial review.—Any person or State Association against whom a cease and desist order is issued or a fine is imposed may have such order or fine reviewed by a court of competent jurisdiction. Except as otherwise provided, an appeal may be made only within 30 days of the issuance of the order or the imposition of the fine, whichever is later.

"§ 54B-72. Indemnity—No person who is fined or penalized for a violation of any criminal provision of this Article shall be reimbursed or indemnified in any fashion by the association for such fine or penalty.

"§ 54B-73. Cumulative penalties.—All penalties, fines, and remedies provided by this Article shall be cumulative.

"§ 54B-74. Annual license fees.—All State associations shall pay an annual license fee of twenty-five dollars ($25.00) and may be licensed upon filing with the administrator an application in such form as the administrator may prescribe. Such license fee shall be used to defray the expenses incurred by the Division in supervising State associations.

"§ 54B-75. Statement filed by association; fees.—Every State association shall file in the office of the administrator, on or before the first day of February in each year, in such form as the administrator shall prescribe, a statement of the business standing and financial condition of such association on the preceding 31st day of December, signed and sworn to by the managing officer and secretary thereof before the administrator, or before a notary public. The administrator shall collect a fee of five dollars ($5.00) from each association filing such statement, and the fees shall be paid into the State treasury to be credited to the General Fund.

"§ 54B-76. Statement examined, approved, and published.—It shall be the duty of the administrator to receive and thoroughly examine each annual statement required by G.S. 54B-75, and if made in compliance with the requirements thereof, each State association shall publish an abstract of the same in one of the newspapers of the State, to be selected by the managing officer making the statement, and at the expense of the association.

"§ 54B-77. Certain powers granted to State associations.—(a) In addition to the powers granted under this Chapter, any savings and loan association incorporated or operated under the provisions of this Chapter is herein authorized to:

(1) establish off the premises of any principal office or branch a customer communications terminal, point-of-sale terminal, automated teller machine, automated or other direct or remote information-processing device or machine, whether manned or unmanned, through or by means of which funds or information relating to any financial service or transaction rendered to the public is stored and transmitted, instantaneously or otherwise to or from an association terminal or terminals controlled or used by or with other parties; and the establishment and use of such a device or machine shall not be deemed to constitute a branch office and the capital requirements and standards for approval of a branch office as set forth in the statutes and regulations, shall not be applicable to the establishment of any such off-premises terminal, device or machine; and associations may through mutual consent share on-premises unmanned automated teller machines
and cash dispensers. The administrator may prescribe rules and regulations with regard to the application for permission for use, maintenance and supervision of said terminals, devices and machines;

(2) subject to such regulations as the administrator may prescribe, a State-chartered association is authorized to issue credit cards, extend credit in connection therewith, and otherwise engage in or participate in credit card operations;

(3) subject to such regulations as the administrator may prescribe, a State-chartered association may act as a trustee, executor, administrator, guardian or in any other fiduciary capacity permitted for federal savings and loan associations by the Congress of the United States, Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation;

(4)(a) in accordance with rules and regulations issued by the administrator, mutual capital certificates may be issued by State-chartered associations and sold directly to subscribers or through underwriters, and such certificates shall constitute part of the general reserve and net worth of the issuing association. The administrator, in the rules and regulations relating to the issuance and sale of mutual capital certificates, shall provide that such certificates:

(i) shall be subordinate to all savings accounts, savings certificates, and debt obligations;

(ii) shall constitute a claim in liquidation on the general reserves, surplus and undivided profits of the association remaining after the payment of all savings accounts, savings certificates, and debt obligations;

(iii) shall be entitled to the payment of dividends; and

(iv) may have a fixed or variable dividend rate.

(b) the administrator shall provide in the rules and regulations for charging losses to the mutual capital certificate, reserves, and other net worth accounts.

§ 54B-78 to 54B-99. Reserved for future codification purposes.

"ARTICLE 5. "

"Corporate Administration."

"§ 54B-100. Membership of a mutual association.—The membership of a mutual association organized or operated under the provisions of this Chapter shall consist of:

(1) those who hold withdrawable accounts in an association; and

(2) those who borrow funds and those who become obligated on a loan from the association, for such time as the loan remains unpaid and the borrower remains liable to the association for the payment thereof.

Any person in his own right, or in a trust or other fiduciary capacity, or any partnership, association, corporation, political subdivision or public or governmental unit or entity may become a member of a mutual association. Members shall be possessed of such voting rights and such other rights as are provided by an association's certificate of incorporation and bylaws as approved by the administrator. Members are the owners of a mutual association.

"§ 54B-101. Directors.—(a) The directors of a mutual association shall be elected by the members at an annual meeting, held pursuant to the terms of G.S. 54B-106, for such terms as the bylaws of the association may provide.
Voting for directors shall be weighted according to the total amount of withdrawable accounts held by a member, subject to a maximum number of votes per member. Such requirements shall be fully prescribed in a detailed manner in the bylaws of the association.

(b) The directors of a stock association shall be elected by the stockholders at an annual meeting, held pursuant to the terms of G.S. 54B-106, for such terms as the bylaws of the association may provide. Voting for directors shall be weighted according to the number of shares of stock held by a stockholder. Such requirements shall be fully prescribed in a detailed manner in the bylaws of the association.

§ 54B-102. Officers and employees.—The board of directors may set, in the bylaws, employment policies as are appropriate for the transaction of the business of an association. The managing officer of an association shall be selected by the board of directors. The remaining officers and employees of the association shall be selected by the managing officer.

§ 54B-103. Duties and liabilities of officers and directors to their associations.—Officers and directors of a State association shall act in a fiduciary capacity towards the association and its members or stockholders. They shall discharge duties of their respective positions in good faith, and with that diligence and care which ordinarily prudent men would exercise under similar circumstances in like positions.

§ 54B-104. Conflicts of interest.—Each director, officer and employee of a State association has a fundamental duty to avoid placing himself in a position which creates, or which leads to or could lead to a conflict of interest or appearance of a conflict of interest having adverse effects on the interests of members, customers or stockholders of the association, the soundness of the association, and the provision of economical home financing for this State.

§ 54B-105. Voting rights.—Voting rights in the affairs of a State association may be exercised by members and stockholders by voting either in person or by proxy. The administrator shall promulgate rules and regulations governing forms of proxies, holders of proxies and proxy solicitation.

§ 54B-106. Annual meetings; notice required.—(a) Each association shall hold an annual meeting of its members or stockholders. The annual meeting shall be held at a time and place as shall be provided in the bylaws or determined by the board of directors.

(b) The board of directors of a mutual association shall cause to be published once a week for two weeks preceding such meeting, in a newspaper of general circulation published in the county where such association has its principal office, a notice of the meeting, signed by the association's secretary, and stating the time and place where it is to be held. In addition to the foregoing notice, each association shall disseminate additional notice of any annual meeting by notice made available to all members entering the premises of any office or branch of the association in the regular course of business by posting therein, in full view of the public and such members, one or more conspicuous signs or placards announcing the pending meeting, the time, date and place of the meeting and the availability of additional information. Printed matter shall be freely available to said members containing any information as may be prescribed in rules and regulations issued by the administrator. Such additional notice shall be given at any time within the period of 60 days prior to and 14 days prior to the meeting and shall continue through the time of the meeting.
(c) The board of directors of a stock association shall cause a written or printed notice signed by the association's secretary, and stating the time and place of the annual meeting to be delivered not less than 10 days nor more than 50 days before the date of the meeting, either personally or by mail to each stockholder of record entitled to vote at the meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States Postal Service addressed to the stockholder at his address as it appears on the record of stockholders of the corporation, with postage thereon prepaid.

"§ 54B-107. Special meetings; notice required.—(a) Special meetings of members or stockholders of an association may be called by the president or the board of directors or by such other officers or persons as may be provided for in the charter or bylaws of the association.

(b) Notice of any special meeting of members or stockholders shall be given in the same manner as provided for annual meetings under G.S. 54B-106.

"§ 54B-108. Quorum.—Unless otherwise provided in the association's charter or bylaws, 50 holders of withdrawable accounts in a mutual association or 50 stockholders or a majority of shares eligible to vote in a stock association, present in person or represented by proxy, shall constitute a quorum at any annual or special meeting.

"§ 54B-109. Indemnification.—(a) An association shall maintain a blanket indemnity bond of at least a minimum amount as prescribed by the administrator.

(b) An association which employs collection agents, who for any reason are not covered by the bond as hereinabove required, shall provide for the bonding of each such agent in an amount equal to at least twice the average monthly collections of such agent. Such agents shall be required to make settlement with the association at least once monthly. No such coverage by bond will be required of any agent which is a bank insured by the Federal Deposit Insurance Corporation or an association insured by the Federal Savings and Loan Insurance Corporation or a mutual deposit guaranty association. The amount and form of such bonds and the sufficiency of the surety thereon shall be approved by the board of directors and the administrator before such is valid. All such bonds shall provide that a cancellation thereof or by the surety or by the insured shall not become effective unless and until 30 days' notice in writing shall have been given to the administrator.

(c) The administrator may require every member of the board of directors, officer or employee of an association who shall knowingly make, approve, participate in, or assent to, or who knowingly shall permit any of the officers or agents of the association to make investments not authorized by this Chapter, to deposit with the association an indemnity bond, insurance or collateral of a kind and amount sufficient to indemnify the association against damage which the association or its members or stockholders sustain in consequence of such unauthorized investment.

(d) The amount considered sufficient to indemnify the association shall, in the case of an unauthorized loan, be the difference between the book value of the loan and the amount that could legally have been made under the provisions of this Chapter. The amount considered sufficient to indemnify the association shall, in the case of an unauthorized other investment, be the difference between the book value and the market value of the investment at the time when the administrator makes his determination that such
investment is unauthorized. Whenever an unauthorized investment has been sold or disposed of without recourse, the administrator shall release such part of the indemnity as remains after deducting any loss, which amount shall be retained by the association. Whenever the balance of an unauthorized loan has been reduced to an amount which would permit such loan to be made in compliance with the provisions of this Chapter, the indemnity shall be released. The administrator, in making such determination may require an independent appraisal of the security.

(e) The administrator shall cause to be examined annually all such bonds and pass on their sufficiency and either the board of directors or the administrator may require new or additional bonds at any time.

(f) The administrator is empowered to promulgate rules and regulations with respect to litigation expenses and other indemnity matters.

§ 54B-110 to 54B-120. Reserved for future codification purposes.

“ARTICLE 6.

“Withdrawable Accounts.

“§ 54B-121. Creation of withdrawable accounts.—(a) Every State association shall be authorized to raise capital through the solicitation of investments from any person, natural or corporate, except as restricted or limited by law, or by such regulations as the administrator may prescribe.

(b) Such funds obtained through the solicitation of investments shall be held by an association in accounts designated generally as withdrawable accounts.

(c) An association may establish as many classes of withdrawable accounts as may be provided for in its certificate of incorporation or bylaws, subject to such regulations and limitations as the administrator may prescribe.

(1) At least one class of withdrawable accounts shall be established by which the holder, upon notice to the association, shall be able to withdraw the entire balance of such account without any penalty. The required period of notice, not to exceed 30 days, shall be determined by the board of directors of each association.

(2) For any additional classes of withdrawable accounts that may be established, the board may require a fixed minimum amount of money and a fixed minimum term, at the end of which, the account holder, without any notice on his part, shall be entitled to payment of the final balance of the funds in such account. Such minimum amount and minimum term and the rate of dividends on withdrawable accounts shall be agreed upon prior to the transfer to the association of any funds by the account holder and shall be evidenced by an executed contract. Associations shall mail to each natural person account holder notification of the date of maturity of accounts at least 10 days prior to maturity.

a. An association may impose a penalty upon the holder of such account to be assessed at the time of any withdrawal from the account prior to the date of termination of the minimum term for which the account holder contracted.

b. An association may require that the holder of such an account provide the association with not less than 30 days' notice of an intended withdrawal prior to the date of the termination of the account contract.
c. When the date of termination of such an account is passed, and the account is mature and payable, all payments thereon by the holder and all dividends on withdrawable account credits thereto by the association shall cease. However, if the holder shall notify the association, prior to the termination date of the account, that he wishes to extend the life of the account, the association shall renew the account and continue to accept payments and/or make dividends on withdrawable account credits or cancel the account as provided under the original contract.

d. Unless the association receives notification within the proper time period and renews the account, then upon the date of termination, it shall either pay to the holder of the account the final value thereof, or mail a notice to the holder at his last address as it appears on the records of the association to the effect that he is entitled to receive payment for the account.

e. If the association does not make payment to the holder of the account upon the date of termination and instead mails a notice to him as provided in paragraph (d) above, then until such time as the holder is paid, the account shall earn dividends on withdrawable accounts at a rate not less than the rate which the association is paying on its account or accounts established under Subdivision (1) above, unless provided otherwise by the account contract.

f. Whenever an association has funds in an amount insufficient to make immediate payment upon the date of termination of an account, or upon an application for withdrawal, the maturity shall be paid in accordance with the provisions of G.S. 54B-124. Whenever such a situation arises, dividends on withdrawable accounts shall be credited to the account at a rate not less than the rate provided for in the account contract.

§ 54B-122. Additional requirements.—Withdrawable accounts shall be:

(1) withdrawable upon demand, subject to the requisite advance notice to the association by the holder, as listed in G.S. 54B-121(c)(2)b. and by such regulations as the administrator may prescribe;

(2) entitled to dividends as provided herein or in such regulations as the administrator may prescribe;

(3) evidenced by an executed contract setting forth any special terms and provisions applicable to the account and the conditions upon which withdrawal may be made. The form of such contract shall be subject to the prior approval of the administrator and shall be held by the association as part of its records pertaining to the account. The association shall issue to the holder of the account either an account book or certificate as evidence of ownership of the account.

§ 54B-123. Dividends on withdrawable accounts.—(a) An association shall compute and pay dividends on withdrawable accounts in accordance with such terms and conditions as are herein prescribed, and subject to additional limitation and restrictions as shall be set forth in its bylaws, or certificate of incorporation and resolutions of its board of directors.

(b) Notwithstanding any other provisions of the General Statutes, savings and loan associations shall not be limited in the amount of dividends they may pay on withdrawable accounts. The administrator shall have the authority to
insure that no association pays dividends on withdrawable accounts inconsistent with the association's continued solvency, and safe and proper operation.

"§54B-124. Withdrawals from withdrawable accounts.—(a) A withdrawable account holder may at any time make written application for withdrawal of all or any part of the withdrawal value thereof except to the extent the same may be pledged as security for a loan, as recorded by the association. The association shall number, date, and file every unpaid withdrawal application in the order of actual receipt.

(b) An association shall pay the total amount of the withdrawal value of a withdrawable account upon application from the holder of the account, except as otherwise provided in this section. Payment shall be made in full, without exception, to holders of withdrawable accounts whose withdrawable account totals one hundred dollars ($100.00) or less.

(c) If an association has funds in the treasury and from current receipts in an amount insufficient to pay all long term withdrawable accounts which are mature and due and all applications for withdrawal, then within seven days after such accounts mature or payment is due, the board of directors of such association shall provide by resolution:

(1) a statement of the amount of money available in each calendar month to pay maturities and withdrawals, in accordance with safe and required operating procedures; provided, that after making provision for expenses, debts, obligations and cash dividends on withdrawable accounts, not less than one hundred percent (100%) of the remainder of cash treasury funds and current receipts shall be made available for the payment of outstanding applications for withdrawal and maturities;

(2) a list of matured withdrawable accounts in order of their maturity, and if in the same series, in order of issuance within such series; and a list of applications for withdrawal in order of actual receipt;

(3) for a maximum sum, set by the administrator which shall be paid to any one holder of a withdrawable account, for which a maturity or an application for withdrawal has not been paid, in any one month; and if the maturity or withdrawal due shall exceed the sum so fixed, then the holder shall be paid such sum in his turn according to the due date of the maturity or the filing date of the application; and his application shall be deemed refiled for payment in order in the next month; and such limited payment shall be made on a fixed date in each month for so long as any application or maturity remains unpaid.

(d) A withdrawable account pledged by the holder as sole security or partial security for a loan shall be subject to the withdrawal provisions of this section, but an application for withdrawal from such account shall be paid only if the resulting balance in such account would equal or exceed the outstanding loan balance, or portion thereof, secured by the withdrawable account. However, withdrawal of any additional amount from the account may be permitted, provided that such payment of such withdrawal application shall be applied first to the outstanding balance of the loan.

(e) The contents of a withdrawable account may be accepted by an association in payment or partial payment for any real property or other assets owned by the association and being sold.
(f) The holder of a withdrawable account which is mature and payable or for which application for withdrawal has been made does not become a creditor of the association merely by reason of such payment due to him.

(g) Any such resolution adopted by an association's board of directors pursuant to this section shall be submitted to the administrator for his approval or rejection. If he finds such to be fair to all affected parties, he shall approve it. If he determines otherwise, such resolution shall be rejected and the association shall not implement any of its provisions. The administrator shall issue his findings within 10 days after receipt of the resolution.

(h) The membership in a mutual association of a withdrawable account holder who has filed an application for withdrawal or whose account is mature and due shall remain unimpaired for so long as any withdrawal value remains to his credit upon the books of the association.

(i) An association may not obligate itself to pay maturities and withdrawals under any provisions other than the ones set forth in this section without prior approval of the administrator.

"§ 54B-125. Emergency limitations.—The administrator, with the approval of the Governor, may impose a limitation upon the amounts withdrawable or payable from withdrawable accounts of State associations during any specifically defined period when such limitation is in the public interest and welfare.

"§ 54B-126. Forced retirement of withdrawable accounts.—(a) At any time that funds may be on hand and available for such a purpose, and the bylaws of an association and withdrawable account contracts so provide, an association shall have the authority and right to redeem all or any portion of its withdrawable accounts which have not been pledged as security for loans by forcing the retirement thereof. The number of and total amount of such withdrawable accounts to be retired by an association shall be determined by the board of directors.

(b) An association shall give notice by certified mail to the last address of each holder of an affected withdrawable account of at least 30 days. The redemption price of withdrawable accounts so retired shall be the full withdrawal value of the account, as determined on the last dividend date, plus all dividends on withdrawable accounts credited or paid as of the effective retirement date. Dividends shall continue to accrue and be paid or credited by the association to the withdrawable accounts to be retired up to and including the effective retirement date.

(c) If the required notice has been properly given, and if on the effective retirement date the funds necessary for payment have been set aside so as to be available, and shall continue to be available therefor, dividends on those withdrawable accounts called for forced retirement shall cease to accrue after the effective retirement date. All rights with respect to such accounts shall, after the effective retirement date, terminate, except only the right of the holder of the retired withdrawable account to receive the full redemption price.

(d) No association may redeem withdrawable accounts by forced retirement whenever it has on file applications for withdrawal, or maturities which have not yet been acted upon and paid. No association may redeem withdrawable accounts by forced retirement until the maturity of any fixed minimum term which may be required for the class of withdrawable accounts to be retired.
“§ 54B-127. Negotiable orders of withdrawal.—Notwithstanding any other provisions of law, the administrator shall by regulation, authorize associations to accept deposits to withdrawable accounts which may be withdrawn or transferred on or by negotiable or transferable order or authorization to the association.

“§ 54B-128. Option on nonnegotiable orders of withdrawal.—Notwithstanding any other provisions of law, the administrator may by regulation authorize State associations to establish nonnegotiable orders or authorizations of withdrawal.

“§ 54B-129. Joint accounts.—(a) Any two or more persons may open or hold a withdrawable account or accounts. The withdrawable account and any balance thereof shall be held by them as joint tenants, with or without right of survivorship, as the contract shall provide. The withdrawable account may be held pursuant to G.S. 41-2.1 and have the incidents set forth in that section, provided, however, if the account is held pursuant to G.S. 41-2.1 the signature card shall set forth that fact. Unless otherwise agreed, payment by the association to any persons holding an account authorized by this section shall be a total discharge of the association’s obligation as to the amount so paid. A pledge of such account by any holder or holders shall, unless otherwise specifically agreed upon, be a valid pledge and transfer of such account, or of the amount so pledged, and shall not operate to sever or terminate the joint ownership of all or any part of the account.

(b) Nothing herein contained shall be construed to repeal or modify any of the provisions of G.S. 105-24, relating to the administration of the estate tax laws of this State, or provisions of laws relating to estate taxes; nor shall the provisions herein contained regulate or limit the rights and liabilities of the parties having an interest in such withdrawable account as among themselves, but shall instead regulate, govern and protect the association in its relationship with such joint owners of withdrawable accounts as herein provided.

(c) No addition to such account, nor any withdrawal, payment or revocation shall affect the nature of the account as a joint account.

“§ 54B-130. Trust accounts.—(a) If any one or more persons holding or opening a withdrawable account shall execute a written agreement with the association, providing for the account to be held in the name of such person or persons as trustee or trustees for one or more persons designated as beneficiaries, the account and any balance thereof shall be held as a trust account, and unless otherwise agreed upon between the trustees and the association:

1) any such trustee during his lifetime may change any designated beneficiaries by a written direction to the association; and

2) any such trustee may withdraw or receive payment in cash or check payable to his personal order, and such payment or withdrawal shall constitute a revocation of the agreement as to the amount withdrawn; and

3) upon the death of the surviving trustee, the person or persons designated as beneficiaries who are living at the death of the surviving trustee shall be the holder or holders of the account, as joint owners with right of survivorship if more than one, and payment by the association to the holder or any of them shall be a total discharge of the association’s obligation as to the amount paid.
(b) If a person opening or holding a withdrawable account shall execute a written agreement with an association providing that upon the death of the person named as holder, that the account shall be paid to or held by another designated person or persons, then the account and any balance thereof, shall be held as a payment on death account and unless otherwise agreed between the person executing such agreement and the association:

1. Upon the death of the holder of such a withdrawable account, the person designated by him and who has survived him shall be the owner of the account, and payment made by the association to any such person shall be a total discharge of the association's obligation as to the amount paid;

2. The person to whom such account is issued may change during his lifetime the designation of any of the persons who are to be holders of the account at his death by a written direction to the association; and

3. The person to whom such account is issued may withdraw or receive payment, and payment so made by the association shall be a total discharge of the association's liability as to the amount paid.

(c) Whenever no beneficiary of a trust account or no person designated to hold at death in a payment on death account survives the last trustee to die or the person to whom the payment on death account is issued, then the account and any balance thereof which exists shall be held by the trustee or holder of the payment on death account, in his own right and for his own use and benefit unless otherwise agreed upon prior to such death of the last beneficiary or person designated to hold at death.

(d) No addition to such accounts, nor any withdrawal, payment, revocation or change of beneficiary or payee shall affect the nature of such accounts as trust accounts or payment on death accounts.

§54B-131. Right of set-off on withdrawable accounts.—Every association shall have a right of set-off, without further agreement or pledge, upon all withdrawable accounts owned by any member or customer to whom or upon whose behalf the association has made an unsecured advance of money by loan; and upon the default in the repayment or satisfaction thereof the association may, with 30 days notice to the member or customer, cancel on its books all or any part of the withdrawable accounts owned by such member or customer, and apply the value of such accounts in payment on account of such obligation. Any association may accept the pledge of withdrawable accounts in such association owned by a member or customer, other than the borrower as additional security for any loan secured by a withdrawable account or by a withdrawable account and real property, or as additional security for any real property loan.

§54B-132. Minors as withdrawable account holders.—An association may issue a withdrawable account to a minor as the sole and absolute owner and receive payments, pay withdrawals, accept pledges and act in any other manner with respect to such account on the order of the minor with like effect as if he were of full age and legal capacity. Any payment to a minor shall be a discharge of the association to the extent thereof. The account shall be held for the exclusive right and benefit of the minor free from the control of all persons, except creditors.

§54B-133. Withdrawable accounts as deposit of securities.—Notwithstanding any restrictions or limitations contained in any law of this State, the withdrawable accounts of any State association or of any federal
association having its principal office in this State, may be accepted by any agency, department or official of this State in any case wherein such agency, department or official acting in its or his official capacity requires that securities be deposited with such agency, department or official.

"§54B-134. New account books.—A new account book or certificate or other evidence of ownership of a withdrawable account may be issued in the name of the holder of record at any time when requested by such holder or his legal representative upon proof satisfactory to the association that the original account book or certificate has been lost or destroyed. Such new account book or certificate shall expressly state that it is issued in lieu of the one lost or destroyed and that the association shall in no way be liable thereafter on account of the original book or certificate. The association may in its bylaws require indemnification against any loss that might result from the issuance of the new account book or certified certificate.

"§54B-135. Transfer of withdrawable accounts.—The owner of a withdrawable account may transfer his rights therein absolutely or conditionally to any other person eligible to hold the same but such transfer may be made on the books of the association only upon presentation of evidence of transfer satisfactory to the association, and accompanied by the proper application for transfer by the transferor and transferee, who shall accept such account subject to the terms and conditions of the savings contract, the bylaws of the association, the provisions of its certificate of incorporation, and all rules and regulations of the administrator. Notwithstanding the effectiveness of such a transfer between the parties thereto, the association may treat the holder of record of a withdrawable account as the owner thereof for all purposes, including payment and voting (in the case of a mutual association) until such transfer and assignment has been recorded by the association.

"§54B-136. Authority of power of attorney.—An association may continue to recognize the authority of an individual holding a power of attorney in writing to manage or to make withdrawals either in whole or in part from the withdrawable account of a customer or member until it receives written or actual notice of death or of adjudication of incompetency of such member or revocation of the authority of such individual holding such power of attorney. Payment by the association to an individual holding a power of attorney prior to receipt of such notice shall be a total discharge of the association’s obligation as to the amount so paid.

§54B-137 to 54B-149. Reserved for future codification purposes.

"ARTICLE 7.

"Loans.

"§54B-150. Manner of making loans.—(a) The bylaws of an association shall provide for procedures by which loans are to be considered, approved and made by the association.

(b) All actions on loan applications to the association shall be reported to the board of directors at its next meeting.

"§54B-151. Permitted loans.—(a) An association may lend funds on the sole security of pledged withdrawable accounts, but no loan so made shall exceed the withdrawal value of the pledged account. However, no such loan shall be made when an association has applications for withdrawals or maturities which have not been paid.
(b) An association may lend funds on the security of real property:
(1) of such value, determined in accordance with the provisions of this Chapter and the rules and regulations concerning appraisals, sufficient to provide good and ample security for the loan; and
(2) which has a fee simple title, totally free from encumbrances except as permitted within this Article; or
(3) which has a leasehold title extending or renewable automatically or at the option of the holder or at the option of the association for a period of at least 10 years beyond the maturity of the loan; and
(4) which has a clear title established by such evidence of title as is consistent with sound lending practices; and
(5) where the security interest in such real property is evidenced by an appropriate written instrument creating or constituting a first and prior lien on real property, and the loan is evidenced by a note, bond or similar written instrument; or
(6) where the security interest in such real property is evidenced by an appropriate written instrument creating or constituting a second or junior lien on real property which is subject only to a mortgage or deed of trust securing a commercial loan or a residential loan made by the association or another lender; and
(7) where the security property may be subject also to taxes and special assessments not yet due and payable.

(c) An association may lend funds on the security of the whole of the beneficial interest in a trust in which the trust property consists of real property of the type upon which a loan would be permitted under G.S. 54B-151(b).

(d) An association may lend funds on the security of bonds issued as general obligations of or guaranteed by the United States, bonds issued as general obligations of this State, and bonds issued as general obligations of any county, city, town, village, school district, sanitation or park district, or other political subdivision or municipal corporation of this State. The amount of such loan made under the authority of this subsection shall not exceed ninety percent (90%) of the face value of the bonds which serve as security.

(e) An association may invest in construction loans, the proceeds of which, under the terms of a written contract between a lender and a borrower, are to be disbursed periodically as such construction work progresses. Such loans may include advances for the purchase price of the real property upon which such improvements are to be constructed. Any construction loan may be converted into a loan with permanent financing, and the term of the permanent financing shall be considered to begin at the end of the term allowed for construction.

(f) An association may lend funds without requiring security. No unsecured loan shall exceed the maximum amount authorized by regulation by the administrator.

(g) An association may invest in loans secured by a lien on unimproved real property.

(h) An association may invest in loans secured by the cash surrender value of any life insurance policy on the life of the borrower. However, the amount of such loan shall in no event exceed ninety percent (90%) of the cash surrender value of such life insurance policy.
(i) An association may invest in loans, obligations and advances of credit made for the payment of expenses of college or university education. Such loans may be secured, partly secured or unsecured, and the association may require a comaker or comakers, an insurance guarantee under a governmental student loan guarantee plan, or other protection against contingencies. The borrower shall certify to the association that the proceeds of the loan are to be used by a full-time student solely for the payment of expenses of college or university education or industrial education center, technical institute or community college education.

(j) An association may lend funds on any collateral deemed sufficient by the board of directors to properly secure loans; however, if the collateral consists of stock or equity securities of any kind, the stock or securities must be listed on a national stock exchange or regularly quoted and offered for trade on an over-the-counter market.

(k) An association may lend funds on the security of a mobile home subject to such rules and regulations governing such loans as may be promulgated by the administrator.

"§ 54B-152. Real property encumbrances.—(a) Real property is deemed encumbered within the meaning of this Chapter unless the security instrument thereon establishes a first lien upon such real property or interest therein.

(b) Notwithstanding the provisions of the immediately preceding subsection, real property is not deemed encumbered within the meaning of this Chapter merely by reason of the existence of:

(1) an instrument reserving a right-of-way, sewer rights, or rights in wells; or
(2) building restrictions or other restrictive covenants; or
(3) a lease under which rents or profits are reserved by the owner; or
(4) current taxes or assessments not yet payable; or
(5) other encumbrances which, in accordance with sound lending practices in the locality, are not regarded as constituting defects in title to real property.

"§ 54B-153. Prohibited security.—No association may accept its own capital stock or its own mutual capital certificates as security for any loan made by such association.

"§ 54B-154. Insider loans.—(a) As used in this section, the term:

(1) ‘Company’ means any corporation, partnership, limited partnership, business or voting trust, association other than a State association, joint venture, pool syndicate, sole proprietorship, unincorporated organization, or any other form of business entity or trust excepting only corporations owned by the United States or a state.

(2) ‘Control’ means that a person:

a. directly or indirectly, or acting through other persons or associates, owns, influences, directs, or has the power to vote more than twenty-five percent (25%) of any class of voting securities of a company;

b. directs, influences, or has the power to vote the election of a majority of the directors of a company;

c. has the power, directly or indirectly, to exercise a controlling or directing influence over the management or policies of a company.

(b) Except as provided in subsection (c) of this section, a State association shall not make any loan or extension of credit to any director, officer, member
of the immediate family of such persons, or company controlled by such persons.

(c) A State association may make a loan or extension of credit to any director, officer, member of the immediate family of such persons, or company controlled by such persons where the loan or extension of credit is made in the ordinary course of business of the association and does not involve a more than normal risk of collectibility or present other unfavorable terms to the association. Such loan or extension of credit shall be limited to the following categories:

(1) loans secured by a single-family dwelling owned and occupied by the borrower as his principal residence;

(2) loans, in the aggregate not exceeding an amount specified by the rules and regulations, for adding to, improving, altering, repairing, or furnishing a single-family dwelling owned and occupied by the borrower as his principal residence;

(3) loans secured by a mobile home owned and occupied by the borrower as his principal residence;

(4) loans secured by withdrawable accounts maintained by the borrower at the association;

(5) loans, in the aggregate not exceeding an amount specified by the rules and regulations, for payment of educational expenses;

(6) consumer loans, in the aggregate not exceeding an amount specified by the rules and regulations, which may be made only to natural persons, and which must comply with the association’s consumer loan underwriting standards and procedures; and

(7) loans or extensions of credit specifically related to credit cards, negotiable order of withdrawal accounts and noninterest bearing negotiable order of withdrawal accounts. Such loans in the aggregate shall not exceed an amount specified in the rules and regulations.

(d) Each loan or extension of credit made under this section to any director, officer, member of the immediate family of such persons, or company controlled by such persons shall be approved by a resolution of the board of directors containing a full disclosure. Such resolution shall be approved by an affirmative vote of at least two-thirds of the directors of the association with any interested directors taking no part in the appraisal of the security property or in such vote. For purposes of this section, ‘full disclosure’ shall mean disclosure as to whether the loan or extension of credit is made on substantially the same terms (including interest rate and collateral) as those for loans or extensions of credit to the general public. With respect to loans made under subdivision (7) of subsection (c) of this section, the resolution shall be adopted with respect to the initial establishment of a line of credit and any increase in such line of credit, but need not be adopted for each extension of credit. Further the resolution need not be adopted for loans made under subdivision (6) of subsection (c) of this section.

§ 54B-155. Rule-making power of administrator.—The administrator shall, from time to time, promulgate such rules and regulations in respect to loans permitted to be made by State associations as may be reasonably necessary to assure that such loans are in keeping with sound lending practices and to promote the purposes of this Chapter; provided, that such rules and regulations shall not prohibit an association from making any loan which is a permitted loan for federal associations under federal regulatory authority.
"§ 54B-156. Loan expenses and fees.—(a) Subject to the provisions of N.C.G.S. Chapter 24, an association may require borrowers to pay all reasonable expenses incurred by the association in connection with making, closing, disbursing, extending, adjusting or renewing loans. Such charges may be collected by the association from the borrower and paid to any persons, including any director, officer or employee of the association who may render services in connection with the loan, or such charges may be paid directly by the borrower.

(b) An association may require a borrower to pay a reasonable charge for late payments made during the course of repayment of a loan. Subject to the provisions of G.S. 24-10(e) and (f), such payments may be levied only upon such terms and conditions as shall be fixed by the association's board of directors and agreed to by the borrower in the loan contract.

"§ 54B-157. Loans conditioned on certain transactions prohibited.—No association or service corporation thereof shall require as a condition of making a loan that the borrower contract with any specific person or organization for particular services.

"§ 54B-158. Insured or guaranteed loans.—An association may make insured or guaranteed loans in accordance with the provisions of G.S. 53-45.

"§ 54B-159. Purchase of loans.—An association may invest any funds on hand in the purchase of loans of a type which the association could make in accordance with the provisions of this Chapter.

"§ 54B-160. Participation in loans.—An association may invest in a participating interest in loans of a type which the association would be authorized to originate; provided, that the other participants are instrumentalities of or corporations owned solely or in part by the United States or this State, or are State associations, or are federal associations, or are service corporations of State or federal associations.

"§ 54B-161. Sale of loans.—An association may sell without recourse any loan, including any participating interest therein. Loans may be assigned or pledged with recourse to any Federal Home Loan Bank or any mutual deposit guaranty association of which the association is a member or to any bank as a requirement of borrowing.

"§ 54B-162. Power to borrow money.—An association, in its certificate of incorporation or in its bylaws, may authorize the board of directors to borrow money and the board of directors may by resolution adopted by a vote of at least two-thirds of the entire board duly recorded in the minutes may authorize the officers of the association to borrow money for the association on such terms and conditions as it may deem proper; provided, that the total amount of money borrowed shall at no time exceed fifty percent (50%) of the gross assets of the association. However, an association may borrow without limit from any agency or instrumentality of the United States, or from any agency or instrumentality of this State, or from any mutual deposit guaranty association, upon such terms and conditions as the agency, instrumentality or association may impose.

"§ 54B-163. Methods of loan repayment.—Subject to such rules and regulations as the administrator may prescribe, an association shall agree in writing with borrowers as to the method or plan by which an indebtedness shall be repaid.

"§ 54B-164. Loans to one borrower.—The aggregate amount of mortgage loans outstanding granted by an association to any one borrower shall not exceed ten percent (10%) of the net withdrawal value of such association's withdrawable
§54B-165. Professional services.—(a) A State association or service corporation thereof must notify borrowers prior to the loan commitment of their right to select the attorney or law firm rendering legal services in connection with the loan, and the person or organization rendering insurance services in connection with the loan. Such persons or organizations must be approved by the association’s board of directors, pursuant to such rules and regulations as the administrator may prescribe.

(b) A State association or service corporation thereof may require borrowers to reimburse such association for legal services rendered to it by its own attorney only when the fee is limited to legal services required by the making of such loan.

§54B-166. Non-conforming investments.—Unless otherwise provided, every loan or other investment made in violation of this Chapter shall be due and payable according to its terms and the obligation thereof shall not be impaired; provided, that such violation consists only of the lending of an excessive sum on authorized security or of investing in an unauthorized investment.

§54B-167. Scope of Article.—Nothing in this Article shall be construed to modify Chapter 24 of the General Statutes, or other applicable law, or to allow fees, charges, or interest beyond that permitted by Chapter 24 or other applicable law.

§54B-168 to 54B-179. Reserved for future codification purposes.

“ARTICLE 8.

“Other Investments.

§54B-180. Other investments.—In addition to the loans and investments permitted under Article 7 of this Chapter, the assets of a State association in excess of the demands of its members or customers may be invested subject to the approval of the board of directors only as described under the provisions of this Article.

§54B-181. Business property of a State association.—A State association may invest in real property and equipment necessary for the conduct of its business and in real property to be held for its future use. Such association may invest in an office building or buildings, and appurtenances for the purpose of the transaction of such association’s business or for rental. No such investment may be made without the prior written approval of the administrator if the total amount of such investments exceeds the association’s net worth.

§54B-182. United States obligations.—A State association may invest in any obligation issued and fully guaranteed in principal and interest by the United States Government or any instrumentality thereof.

§54B-183. North Carolina obligations.—A State association may invest in any obligation issued and fully guaranteed in principal and interest by the State of North Carolina or any instrumentality thereof.

§54B-184. Federal Home Loan Bank obligations.—A State association may invest in the stock of the Federal Home Loan Bank of which such association is a member, and in bonds or other evidences of indebtedness or obligation of any Federal Home Loan Bank.

§54B-185. Deposits in banks.—A State association may invest in certificates of deposit, time insured deposits, savings accounts, or demand deposits of such banks as are approved by the board of directors of the association.
"§54B-186. Deposits in other associations.—A State association may invest in withdrawable accounts of any State association, or of any federal association having its principal office within this State, up to an amount equal to the amount of insurance coverage on such association's withdrawable accounts by either the Federal Savings and Loan Insurance Corporation or by a mutual deposit guaranty association organized or operated pursuant to Article 12 of this Chapter.

"§54B-187. Federal National Mortgage Association obligations.—A State association may invest in stock or other evidences of indebtedness or obligations of the Federal National Mortgage Association, or any successor thereto.

"§54B-188. Municipal and county obligations.—A State association may invest in bonds or other evidences of indebtedness which are direct general obligations of any county, city, town, village, school district, sanitation or park district, or other political subdivision or municipal corporation of this State; or in bonds or other evidences of indebtedness which are payable from revenues or earnings specifically pledged therefor, which are issued by the county or an adjoining county or a political subdivision or municipal corporation of a county in this State.

"§54B-189. Stock in education agency.—A State association may invest in stock or obligations of any corporation doing business in this State, or of any agency of this State or of the United States, where the principal business of such corporation or agency is to make loans for the financing of a college or university education, or education at an industrial education center, technical institute or community college in this State.

"§54B-190. Industrial development corporation stock.—A State association may invest in stock or other evidence of indebtedness or obligations of business or industrial development corporations chartered by this State or by the United States.

"§54B-191. Urban renewal investment corporation stock.—A State association may invest in stock or other evidence of indebtedness or obligations of an urban renewal investment corporation chartered under the laws of this State or of the United States.

"§54B-192. Urban renewal projects.—(a) A State association may invest in the initial purchase and development, or the purchase or commitment to purchase after completion, of unimproved residential real property or improved residential real property for sale or rental, including projects for the reconstruction, rehabilitation or rebuilding of residential properties to meet the minimum standards of health and occupancy prescribed by appropriate local authorities, and the provision of accommodations for retail stores, shops and other community services which are reasonably incident to such housing projects. No such investment shall be made under the provisions of this section without the prior approval of the administrator. The administrator may approve such investment under the provisions of this section only when the association shows:

(1) that the association has adequate assets available for such an investment;

(2) that the amount of the proposed investment does not exceed ninety percent (90%) of the reasonable market value of the property or interest therein; and
(4) that the proposed project is to be located in an area, including any contiguous area acquired incidentally thereto, determined by the administrator to be an urban renewal, redevelopment, blighted or conservation area, or any similar area provided for by the laws of this State or of the United States, or local ordinances for slum clearance, conservation, blighted area clearance, redevelopment, urban renewal or of a similar nature or purpose.

(b) Nothing herein contained shall prohibit a State association from developing or building on land acquired by it under any other provisions of this Chapter; nor shall a State association be prohibited from completing the construction of buildings pursuant to any construction loan contract where the borrower has failed to comply with the terms of such contract.

"§ 54B-193. Loans on sufficient collateral.—A State association may invest in loans secured by any collateral deemed sufficient by the board of directors to properly secure loans; however, if the collateral consists of stock or equity securities of any kind, the stock or securities must be listed on a national stock exchange or regularly quoted and offered for trade on an over-the-counter market.

"§ 54B-194. Service corporations.—(a) Any association or group of associations whose principal offices are located within this State, may establish service corporations under the provisions of Chapter 55 for corporate organization, provided that the administrator receives copies of the proposed articles of incorporation and bylaws for approval, prior to filing them with the Secretary of State. Any such association may also invest in the capital stock, obligations or other securities of existing service corporations.

(b) No State association may make any investment in service corporations if its aggregate investment would exceed five percent (5%) of its total assets.

(c) Service corporations shall be subject to audit and examination by the administrator, and the cost of examination shall be paid by the service corporation.

(d) The permitted activities of a service corporation shall be described in the rules and regulations as promulgated by the administrator. In addition, a service corporation may engage in those activities which are approved by the Federal Home Loan Bank Board for service corporations owned solely by federal associations who have their principal offices in this State, unless such activities are prohibited by the administrator.

(e) The location of the principal and branch offices of a service corporation must be approved by the administrator.

"§ 54B-195. Any loan or investment permitted for federal associations.—Subject to such limitations and restrictions as the administrator may prescribe through rules and regulations, any State association is authorized and permitted to make any loan or investment which may be permitted by the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, and the United States Congress for federal associations whose principal offices are located within this State. Every loan or investment made by a State association prior to the enactment of this Chapter shall for all purposes be considered to have been permitted loans or investments if federal associations were authorized to make such loans or investments at the time they were made by the State association.
“§54B-196. Parity of interest rates.—Notwithstanding any other provision of law, any savings and loan association in North Carolina may contract for interest on any loan, purchase money loan, advance, commitment for a loan or forbearance at any rate permitted by federal law to a savings and loan association the accounts of which are insured by the Federal Savings and Loan Insurance Corporation.

“§54B-197. Effect of change in law or regulation.—Any loan or investment made by a State association which was in compliance with the law or regulations in effect at the time such loan or investment was made will remain a legal loan or investment even though the power to make such loans or investments in the future is amended or revoked.

§54B-198 to 54B-209. Reserved for future codification purposes.

“ARTICLE 9.

“Liquidity Fund.

“§54B-210. Components of liquidity fund.—(a) Every State association shall at all times have on hand and unpledged, cash, investments in obligations of the United States government, or the government of the State of North Carolina, or stock in the Federal Home Loan Bank, or deposits in any mutual deposit guaranty association organized or operated pursuant to Article 12 of this Chapter, or bonds issued by the Federal Home Loan Bank, or funds on deposit in a Federal Reserve Bank or in other bank or banks as may have been approved by a majority of the entire board of directors, in an amount set by the Commission equal to at least four percent (4%) of the net withdrawal value of the association’s withdrawable account, or two hundred fifty thousand dollars ($250,000), whichever is greater, as the liquidity fund and held to assure the liquidity of such association. Such investments and funds on deposit shall be readily marketable and shall not exceed a term of five years.

“§54B-211. Renewal of liquidity fund.—If the liquidity fund falls below the amount required by the Commission, the association shall make no new real property loans until the required level has been attained. The refinancing, recasting or renewal of loans previously made and loans made as a result of foreclosure sales under instruments held by the association shall not be considered as new loans, within the meaning of this section.

§54B-212 to 54B-215. Reserved for future codification purposes.

“ARTICLE 10.

“General Reserve Account.

“§54B-216. General Reserve Account.—(a) Every State association shall establish and maintain a general reserve account for the sole purpose of covering losses. The general reserve account shall be established and maintained separately from any specific loss reserve accounts established and maintained at the election of the association or pursuant to rules and regulations prescribed by the Commission.

(b) The general reserve account shall be maintained at a level set by the Commission based on assets. In setting the level for the general reserve account, the Commission shall evaluate the risk attributable to various types of assets and shall establish percentages for each type of asset based on its level of risk. Transfers to the general reserve account shall be made at such times as the Commission shall prescribe.

(c) In the case of newly chartered mutual associations, transfers to the general reserve account shall be made as prescribed by the Commission.
(d) In the case of newly chartered stock associations, the permanent capital reserve required by G.S. 54B-12(b)(2) shall be deemed a constituent part of and not supplementary to the general reserve required by this section. Therefore, a minimum of five hundred thousand dollars ($500,000) shall be in the general reserve account of a stock association until the assets of the association increase above a level to be set by the Commission. Thereafter, transfers to the general reserve account shall be made as prescribed by the Commission.

(e) The general reserve account required by this section shall be deemed identical with and not supplementary to the reserves required to be established and maintained by a State association insured by the Federal Savings and Loan Insurance Corporation.

(f) The failure of a State association to maintain the required level set by the Commission for the general reserve account may be grounds for supervisory action by the administrator.

(g) The Commission shall adopt rules and regulations for the implementation of this section.

§ 54B-217 to 54B-220. Reserved for future codification purposes.

"ARTICLE 11.

"Foreign Associations.

"§ 54B-221. Allowed to do business.—A corporation or association chartered by another state to conduct the savings and loan business may be certified by this State for the purpose of conducting the business of a savings and loan association in the manner hereinafter provided. Unless so certified, no foreign association shall conduct a savings and loan business in this State.

"§ 54B-222. Application by a foreign association.—Application by a foreign association to conduct a savings and loan business in this State shall be made to the administrator. Upon making such application, the association shall file with the administrator two certified copies of its charter or certificate of incorporation, and bylaws, and thereafter certified copies of all amendments thereto; the names and addresses of its officers and directors; and a report of its condition, in such form as may be prescribed by the administrator, which shall be verified by oath of such officers and other persons as the administrator shall designate. The administrator may call for additional reports.

"§ 54B-223. Certificate of authority to enter State.—If the administrator finds that the association has good assets of sufficient value to cover all its liabilities and that its methods of doing business are safe and not contrary to the laws governing associations in this State, it may be permitted to conduct the business of a savings and loan association in this State upon a certificate of authority to enter, which shall be issued by the administrator only when such association shall have complied with the further requirements of this Article. The administrator shall have the authority to conduct, or cause to be conducted, an examination and investigation, upon the premises of the association as a prerequisite to the issuance of a certificate of authority to enter. Such certificate of authority to enter must be renewed annually for so long as such foreign association desires to operate within this State. Renewal may occur upon payment by the association of the appropriate renewal fee and a determination by the administrator of the association's continued fitness to operate within this State.

"§ 54B-224. Deposit of securities.—The administrator, prior to issuing a certificate of authority to enter, shall require every such foreign association to
deposit with the administrator such securities as he may approve, amounting to at least thirty thousand dollars ($30,000). These securities shall be held by him in trust for the exclusive benefit and security of the creditors and withdrawable account holders of the foreign association who are resident in this State and he shall have authority to require it to deposit additional securities at any time. No change or transfer of such securities shall be made without his consent. Such deposit of securities shall be maintained intact at all times in the full sum required, but the association making such deposit, so long as it shall continue solvent and in compliance with all the provisions of this Chapter applicable to it, may receive the dividends or interest on the securities deposited, and may from time to time, with the approval of the administrator withdraw any such securities upon depositing with the administrator other like securities the market value of which shall be equal to such as may be withdrawn.

"§54B-225. Appointment of administrator as attorney.—The certificate of authority to enter shall be for the current calendar year only. It shall not be issued until the association shall by a duly executed instrument filed with the administrator, constitute as its true and lawful attorney the administrator and his successors in office, upon whom all original process in any action or legal proceedings against it may be served, and therein shall agree that any original process against it which may be served upon the administrator shall be of the same force and validity as if served on the association itself, and that the authority thereof shall continue in force irrevocable so long as any liability of the association remains outstanding in this State. Such service of process shall be made by leaving a copy of same in the office of the administrator along with a fee of two dollars ($2.00) to be taxed in the plaintiff’s costs. When any original process is thus served, the administrator, by letter directed to the secretary of the association, shall within two days after such service forward to the secretary a copy of the process served upon him, and such service shall be deemed sufficient service upon the association. The administrator shall keep a record of all such process showing the day and hour of such service.

"§54B-226. Certificate required for agent.—No person may solicit business for, nor act as agent for any foreign association doing business in North Carolina without having first procured from the administrator a certificate stating that the association for which he offers to act is duly certified by this State to do business in the year in which such person solicits business or offers to act as agent. The administrator shall be paid a fee of one dollar ($1.00) for issuing the certificate, to be paid by the association for which the same was issued. Any person violating the provisions of this section shall be guilty of a misdemeanor.

"§54B-227. Fees and expenses.—Every such association shall pay for filing two certified copies of its certificate of incorporation, twenty dollars ($20.00); for filing original annual reports, twenty dollars ($20.00); for original or any renewal certificate of authority to enter, two hundred fifty dollars ($250.00); for certificate of each agency, five dollars ($5.00); and shall pay a fee set annually by the administrator for the examination of the association. The administrator may maintain an action in the name of this State against such association for the recovery of any such fees in any court of competent jurisdiction.

"§54B-228. Subject to North Carolina law.—Any contract made by any foreign association with any citizen of this State shall be deemed and considered a North Carolina contract, and shall be so construed by all the courts of this State according to the laws thereof.

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§ 54B-229 to 54B-235. Reserved for future codification purposes.

“ARTICLE 12.

“Mutual Deposit Guaranty Associations.

“§ 54B-236. Definitions.—The term ‘institution’ as used in this Article shall mean savings and loan associations organized or operated under the provisions of this Chapter, or credit unions organized or operated under the provisions of Article 10, Subchapter III of Chapter 54 of the General Statutes.

“§ 54B-237. Organization of a mutual deposit guaranty association.—(a) Any number of institutions, not less than 25, may become incorporated as a mutual deposit guaranty association without capital stock subject to the limitations prescribed in this Article. A mutual deposit guaranty association shall be governed by a board of directors or board of trustees of which a majority shall be representatives of the public and shall not be employees or directors of any insured member institution or have an interest in any insured member institution other than as a result of being a depositor or borrower.

(b) Articles of incorporation of a guaranty association shall be filed in the office of the Secretary of State. The Secretary of State shall, upon receipt of such articles, transmit a copy of them to the administrator and shall not record them until authorized to do so by the administrator.

“§ 54B-238. Examination and certification by administrator.—(a) Upon receipt from the Secretary of State of a copy of the articles of incorporation of a proposed guaranty association, the administrator shall at once examine all the facts connected with the formation of the proposed corporation. If the articles of incorporation are correct in form and substance and the examination shows that such corporation, if formed, would be entitled to commence the business of a guaranty association, the administrator shall so certify to the Secretary of State.

(b) The administrator may refuse to make such certification if upon examination he has reason to believe the proposed corporation is to be formed for any business other than assuring the liquidity of member institutions and guaranteeing deposits therein, if he has reason to believe that the character and general fitness of the incorporators are not such as to command the confidence of the general public or if the best interests of the public will not be promoted by its establishment.

“§ 54B-239. Recordation of articles of incorporation.—Upon receipt of the certification provided for in G.S. 54B-238, the Secretary of State shall record the articles of incorporation of such guaranty association and furnish a certified copy thereof to the incorporators and to the administrator. Upon such recordation, such association shall be deemed a corporation. All papers thereafter filed in the office of the Secretary of State relating to such corporation shall be recorded as provided by law and a certified copy forwarded to the administrator.

“§ 54B-240. Proposed amendments submitted to administrator.—Any proposed amendments to the articles of incorporation of a mutual deposit guaranty association shall be filed in the office of the Secretary of State, who shall forward a copy thereof to the administrator, and shall not record the amendments until authorized to do so by certification of the administrator.

“§ 54B-241. Examination and certification of amendments.—(a) Upon receipt from the Secretary of State of a copy of proposed amendments to the articles of incorporation of a mutual deposit guaranty association, the administrator shall
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at once examine the proposed amendments to determine their effect on the operation of the guaranty association.

(b) In the event the proposed amendments are correct in form and substance and the examination shows that if adopted they would not change the character or principal business of the guaranty association, the administrator shall so certify to the Secretary of State.

(c) The administrator may refuse to make certification if upon examination he has reason to believe that the proposed amendments would change the character of the business of the guaranty association or that the best interests of the public will not be promoted by their adoption.

"§54B-242. Recordation of amendments.—Upon receipt of the certification provided for in G.S. 54B-241, the Secretary of State shall record the amendments to the articles of incorporation and furnish a certified copy thereof to the mutual deposit guaranty association and to the administrator.

"§54B-243. Reserve for losses.—A mutual deposit guaranty association shall maintain at all times an amount of funds equal to no less than one percent (1%) of its insured liability to cover losses of its members. These funds may include cash, investments, and reinsurance.

"§54B-244. Purposes and powers of mutual deposit guaranty associations.—
(a) The purposes of a mutual deposit guaranty association incorporated in accordance with the provisions of this Article are to:

(1) assure the liquidity of a member institution;
(2) guarantee the withdrawable accounts, shares or deposits of member institutions;
(3) serve, when appointed, as receiver of a member institution.

(b) A mutual deposit guaranty association incorporated in accordance with the provisions of this Article may:

(1) lend money to a member institution for the purpose of assuring its liquidity and withdrawable accounts, shares or deposits therein;
(2) purchase any assets owned by a member institution for the purpose of assuring its liquidity and withdrawable accounts, shares or deposits therein;
(3) invest any of its funds in:
   a. bonds or interest-bearing obligations of the United States or for which the faith and credit of the United States are pledged for the payment of principal and interest;
   b. bonds or interest-bearing obligations of this State;
   c. farm loans issued under the Federal Farm Loan Act and amendments thereto;
   d. notes, debentures, and bonds of a federal home loan bank issued under the Federal Home Loan Bank Act and any amendments thereto;
   e. bonds or other securities issued under the Home Owners’ Loan Act of 1933 and any amendments thereto;
   f. securities acceptable to the United States to secure government deposits in national banks;
   g. deposits in any financial institution that is subject to examination and supervision by the United States or by this State;
   h. bonds or other evidences of indebtedness of counties and municipalities of the State of North Carolina, provided, that said
bonds or other evidences of indebtedness of the counties and municipalities shall have a rating by Moody's Investors Services, Inc., of not less than AA, and a rating by the North Carolina Municipal Council, Inc., of not less than 90 points out of 100 points; i. stock in banking institutions licensed to do business in this State; j. securities and other investments authorized as liquid investments for any financial institution that is subject to examination and supervision by the United States or by this State; k. notes, bonds, debentures or securities rated in one of the four highest grades by a nationally recognized investment rating service. (4) issue its capital notes or debentures to member institutions, provided the holders of these capital notes or debentures shall not be individually responsible for any debts, contracts, or engagements of the guaranty association issuing the notes or debentures; (5) borrow money; (6) exercise any corporate power or powers not inconsistent with, and which may be necessary or convenient to, the accomplishment of its purposes of assuring liquidity of member institutions and guaranteeing withdrawable accounts, shares or deposits therein; (7) serve as receiver of a member institution; (8) make or cause to be made examinations or audits of member institutions. “§ 54B-245. Filing of semiannual financial reports; fees.—Each mutual deposit guaranty association shall on the 30th day of June and the 31st day of December of each year, or within 40 days thereafter, file with the administrator a report for the preceding half year, showing its financial condition at the end thereof. Such reports shall be in such form and contain such information as may be prescribed by the administrator. Each guaranty association doing business in this State shall pay to the administrator, at the time of filing each semiannual report required by this section, the sum of five dollars ($5.00). All such fees shall be paid into the State treasury to the credit of the General Fund. “§ 54B-246. Supervision by administrator.—(a) In addition to any and all other powers, duties and functions vested in the administrator under the provisions of this Article, and for the protection of member institutions and the general public, the administrator shall have general control and supervision over all mutual deposit guaranty associations doing business in this State. Mutual deposit guaranty associations shall be subject to the control and supervision of the administrator as to their conduct, organization, management, business practices, reserve requirements and their financial and fiscal matters. Such control and supervision is subject to the provisions of G.S. 54B-53(g). (b) The administrator shall have the right, and is hereby empowered to issue rules and regulations whenever he deems it necessary for the administration of this Article as well as rules and regulations with respect to: (1) types of financial records to be maintained by mutual deposit guaranty associations; (2) retention periods of various financial records; (3) internal control procedures of mutual deposit guaranty associations; (4) conduct and management of mutual deposit guaranty associations; (5) additional reports which may be required by the administrator.
It shall be the duty of the board of directors or board of trustees of the mutual deposit guaranty association to put into effect and to carry out such rules and regulations.

(c) At least once each year the administrator shall make or cause to be made an examination into the affairs of each mutual deposit guaranty association doing business in this State. The administrator of the Credit Union Division of this State, in his capacity as supervisor of State chartered credit unions, if he deems it necessary, may designate agents to participate in such examination. The expenses of such yearly examination shall be paid by the mutual deposit guaranty association so examined.

"§ 54B-247. Special examinations.—Whenever the administrator deems it necessary, he may make or cause to be made a special examination or audit of any mutual deposit guaranty association doing business in this State, in addition to the regular examination provided for by this Article. The expenses of such a special examination or audit shall be paid by the mutual deposit guaranty association so examined.

"§ 54B-248. Right to enter and to conduct investigations.—The administrator or any examiner appointed by him shall have access to and may compel the production of all books, papers, securities, moneys, and other property of a mutual deposit guaranty association under examination by him. He may administer oaths to and examine the officers and agents of such association as to its affairs.

"§ 54B-249. Removal of officers or employees.—The administrator shall have the right, and is hereby empowered, to require the board of directors or board of trustees of any guaranty association to immediately remove from office any officer, director, trustee or employee of any mutual deposit guaranty association doing business in this State, who shall be found by the administrator to be dishonest, incompetent, or reckless in the management of the affairs of the mutual deposit guaranty association, or in violation of the lawful orders, rules and regulations issued by the administrator, or who violates any of the laws set forth in Chapter 54B of the General Statutes.

§ 54B-250 to 54B-260. Reserved for future codification purposes.

"ARTICLE 13.

"Savings and Loan Holding Companies.

"§ 54B-261. Savings and loan holding companies.—(a) Notwithstanding any other provision of law, any stock association may reorganize its ownership, to provide for ownership by a savings and loan holding company, upon adoption of a plan of reorganization by a favorable vote of not less than two-thirds of the members of the board of directors of the association and approval of such plan of reorganization by the holders of not less than a majority of the issued and outstanding shares of stock of the association. The plan of reorganization shall provide that (i) the resulting ownership shall be vested in a North Carolina corporation, (ii) all stockholders of the stock association shall have the right to exchange shares, (iii) the exchange of stock shall not be subject to State or federal income taxation, (iv) stockholders not wishing to exchange shares shall be entitled to dissenters' rights as provided under G.S. 55-113 and (v) the plan of reorganization is fair and equitable to all stockholders.

(b) All limitations or restrictions on the ownership of the stock of a stock association contained in this Chapter shall be and hereby are made applicable
to the ownership of the stock of a savings and loan holding company which owns shares of stock of a stock association organized pursuant to this Chapter.

(c) A savings and loan holding company may invest only in (i) the stock of one or more other stock associations, (ii) deposits in financial institutions the principal offices of which are located in North Carolina and (iii) other investments in accordance with rules and regulations promulgated by the administrator. However, in no event shall a savings and loan holding company make any investment not specified by this section or not permitted for an association under this Chapter.

"§ 54B-262. Supervision of savings and loan holding companies.—Savings and loan holding companies shall be under the supervision of the administrator. The administrator shall exercise all powers and responsibilities with respect to savings and loan holding companies which he exercises with respect to associations."

Sec. 4. This act shall become effective May 1, 1981.

In the General Assembly read three times and ratified, this the 30th day of April, 1981.

H. B. 536 CHAPTER 283

AN ACT TO REQUIRE CONSENT OF THE BOARD OF COUNTY COMMISSIONERS BEFORE LAND IN BRUNSWICK OR PENDER COUNTY MAY BE CONDEMNED OR ACQUIRED BY A UNIT OF LOCAL GOVERNMENT OUTSIDE THE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of G.S. 153A-159, Article 11 of Chapter 160A of the General Statutes, G.S. 130-130, Chapter 40 of the General Statutes, or any other general law or local act conferring the power of eminent domain, before final judgment may be entered in any action of condemnation initiated (or in the case of Article 11 of Chapter 160A, before a final condemnation resolution is adopted) by a county, city or town, special district, or other unit of local government which is located wholly or primarily outside another county, whereby the condemnor seeks to acquire property located in the other county, the condemnor shall furnish proof that the county board of commissioners of the county where the land is located has consented to the taking.

Sec. 2. Notwithstanding the provisions of G.S. 153A-158, Chapter 160A of the General Statutes, Article 12 of Chapter 130 of the General Statutes, or any other general law or local act conferring the power to acquire real property, before any county, city or town, special district, or other unit of local government which is located wholly or primarily outside another county acquires any real property located in the other county by exchange, purchase or lease, it must have the approval of the county board of commissioners of the county where the land is located.

Sec. 3. This act applies to Brunswick and Pender Counties only.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of April, 1981.
CHAPTER 284  Session Laws—1981

H. B. 805  CHAPTER 284

AN ACT TO REPEAL CERTAIN ARTICLES OF CHAPTER 106 DEALING WITH AGRICULTURE, WHICH HAVE BEEN SUPERSEDED BY OTHER LAWS.

Whereas, Article 8 of Chapter 106 of the General Statutes, Sale of Agricultural Liming Materials, has been superseded by Article 8A, Sale of Agricultural Liming Materials and Landplaster; and
Whereas, Article 14, State Inspection of Slaughterhouses, has been superseded by Article 49B, Meat Inspection Requirements; and
Whereas, Article 49A, Voluntary Inspection of Poultry, has been superseded by Article 49D, Poultry Products Inspection Act; Now, therefore,
The General Assembly of North Carolina enacts:

Section 1. Articles 8, 14, and 49A of Chapter 106 of the General Statutes are repealed.
Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 30th day of April, 1981.

H. B. 177  CHAPTER 285

AN ACT TO PROVIDE A SUPPLEMENTAL RETIREMENT FUND FOR FIREMEN IN THE TOWN OF LILLINGTON.

The General Assembly of North Carolina enacts:

Section 1. Supplemental Retirement Fund Created. The Board of Trustees of the Local Firemen’s Relief Fund of the Town of Lillington, as established in accordance with G.S. 118-6, hereinafter called the board of trustees, shall create and maintain a separate fund to be called the Lillington Firemen’s Supplemental Retirement Fund hereinafter called the supplemental retirement fund, and shall maintain books of account for such fund, separate from the books of account of the local relief fund. The board of trustees shall pay into the supplemental retirement fund, all funds prescribed by this act.

Sec. 2. Transfers of Fund and Disbursements Thereof. Notwithstanding the provisions of G.S. 118-7, the Board of Trustees of the Local Firemen’s Relief Fund of the Town of Lillington, shall:

(a) prior to January 1, 1982, and prior to January 1 in each calendar year, transfer to the supplemental retirement fund, all funds belonging to the local firemen’s relief fund in excess of the amount of ten thousand dollars ($10,000);
(b) at any time the amount of funds in the local firemen’s relief fund be less than ten thousand dollars ($10,000), by reason of disbursements authorized by G.S. 118-7, then, funds from the supplemental retirement fund shall be transferred to the local firemen’s relief fund in an amount sufficient to maintain a balance of ten thousand dollars ($10,000);
(c) as soon as practical after January 1 of each year, but in no event later than February 1, an amount equal to the total income of the local firemen’s relief fund and supplemental retirement fund or an amount determined by the board of trustees, shall be divided into equal shares and disbursed in accordance with Section 3 of this act.

Sec. 3. Supplemental Retirement Benefits. Each retired fireman of the Town of Lillington, who has retired with 20 years service or more, as a fireman
of the Town of Lillington and has reached the age of 55 years, or any fireman who for any reason has become totally and permanently disabled and has served as a fireman in and for the Town of Lillington for a period of five or more years, shall be entitled to and shall receive in each calendar year, following the calendar year in which he retires, the supplemental retirement benefits as follows: one share for each full year of service as a fireman of the Town of Lillington. The amount of each share shall be determined by dividing the total number of years served by all eligible retired firemen into the total amount set aside by the board of trustees to be disbursed for the calendar year.

Sec. 4. Investment of Funds. The board of trustees may invest any funds, either of the local firemen's relief fund or of the supplemental retirement fund, in any investment named in or authorized by either G.S. 159-30 or G.S. 159-31, and shall invest all of the funds belonging to the local firemen's relief fund or the supplemental retirement fund, in one or more such investments; provided, that investment in certificates of deposit or time deposits in any bank or trust company, or savings and loan associations, shall not exceed the amount insured by the Federal Deposit Insurance Corporation, or the Federal Savings and Loan Insurance Corporation, as the case may be, unless such deposits or investments in shares are secured in the manner provided by G.S. 159-30 or G.S. 159-31.

Sec. 5. Acceptance of Gifts. The board of trustees is hereby authorized to accept any gift, grant, bequest or donation of money or instruments of value, for the use of the supplemental retirement fund.

Sec. 6. Bond of Treasurer. The board of trustees shall bond the treasurer of the local firemen's relief fund and the supplemental retirement fund, in an amount equal to the amount of the funds in his care and control, said bond being payable to the board of trustees. Such bond shall be in lieu of the bond required by G.S. 118-6. The board of trustees may authorize payment of premiums for the bond of the treasurer from the supplemental retirement fund.

Sec. 8. Severability. If any provision of this act is declared invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions which can be given effect without the invalid provision. The provisions of this act are declared to be severable.

Sec. 9. Repealer. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 10. Effective Date. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of May, 1981.
CHAPTER 286

AN ACT TO PROVIDE A SUPPLEMENTAL RETIREMENT FUND FOR FIREMEN IN THE TOWN OF EDENTON.

The General Assembly of North Carolina enacts:

Section 1. Supplemental Retirement Fund created. The Board of Trustees of the Local Firemen's Relief Fund of the Town of Edenton, as established in accordance with G.S. 118-6, hereinafter called the Board of Trustees, shall create and maintain a separate fund to be called the Edenton Firemen's Supplemental Retirement Fund, hereinafter called the Supplemental Retirement Fund, and shall maintain books of account for the fund, separate from the books of account of the Local Firemen's Relief Fund. The Board of Trustees shall pay into the Supplemental Retirement Fund all funds prescribed by this act.

Sec. 2. Transfers and Disbursement of Fund. Notwithstanding the provisions of G.S. 118-7, the Board of Trustees shall:

(a) prior to September 1, 1982, and prior to September 1 of each fiscal year thereafter, transfer to the Supplemental Retirement Fund all earnings on investments and interest of the Local Relief Fund;

(b) if at any time the amount of funds in the Local Firemen's Relief Fund be less than thirty-five thousand dollars ($35,000), transfer funds from the Supplemental Retirement Fund to the Local Firemen's Relief Fund in an amount sufficient to maintain a balance of thirty-five thousand dollars ($35,000). If no funds are available in the Supplemental Retirement Fund, the Board of Trustees may cease retirement payments until a balance of thirty-five thousand dollars ($35,000) is reached in the Local Firemen's Relief Fund. At this time, the Supplemental Retirement Fund will become active again.

(c) as soon as practical after September 1 of each year, but in no event later than December 1, divide an amount equal to the total income and interest earned in the preceding year on investments of funds belonging to the Local Firemen's Relief Fund into equal shares and disburse the same as Supplemental Retirement Fund benefits in accordance with Section 3 of this act.

Sec. 3. Supplemental Retirement Fund benefits. (a) The following classes of firemen are eligible for Supplemental Retirement Fund benefits:

(1) each retired fireman of the Town of Edenton, whether full-time or volunteer, who retires from the Edenton Fire Department after having served 25 years or more and who has reached the age of 55 years. He is entitled to benefits equal to one point for each year of active service. No single payment shall exceed six hundred dollars ($600.00). Any fireman who has retired before the effective date of this act is entitled to full benefits prescribed by subdivision (1) of subsection (a) of this act.

(2) each retired fireman of the Town of Edenton, whether full-time or voluntary, who retires from the Edenton Fire Department after having served at least 20 years but less than 25. He is entitled to benefits equal to 1/2 point for each year of active service. No single payment shall exceed one hundred fifty dollars ($150.00). Payments commence when the retired fireman reaches age 55.

(3) each fireman of the Town of Edenton, whether full-time or voluntary, who becomes permanently and totally disabled to perform the normal duties of an active fireman because of illness or injury received while in the line of duty and who is so certified within the fiscal retirement year of July 1 through June
30 by a physician licensed to practice in North Carolina. He is entitled to benefits equal to 25 points regardless of how many years he has actually served if he has served less than 25 years. If he has served 25 years or more, he is entitled to benefits equal to one point for each year of active service. No single payment shall exceed six hundred dollars ($600.00).

(4) each fireman of the Town of Edenton, whether full-time or voluntary, who becomes permanently and totally disabled to perform the normal duties of an active fireman because of illness or injury incurred elsewhere than in the line of duty and is so certified within the fiscal retirement year of July 1 through June 30 by a physician licensed to practice in North Carolina, who has served as a fireman for the Town of Edenton for a period of ten years or more. He is entitled to benefits equal to one point for each year of active service.

(b) Funds shall be divided and distributed by the point system in one annual payment to each eligible retired fireman as defined in Section 3(a) of this act. The amount of each point shall be determined by dividing the total number of years served by all eligible retired firemen into the total amount set aside by the Board of Trustees to be disbursed for the year. All eligible firemen must have made application pursuant to Section 7 of this act before receiving any payment.

(c) In the event of an eligible fireman’s death during the last quarter of the fiscal year, the beneficiary will receive the next annual payment. At this time payments will cease.

(d) These benefits are to be disbursed by the Treasurer of the Board of Trustees and the Chief of the Edenton Fire Department.

Sec. 4. Disbursement and Investment of Funds. This act authorizes the disbursement as Supplemental Retirement Fund benefits only of the income and interest derived in any fiscal year from the investments of funds belonging to the Firemen's Local Relief Fund. Funds paid into the Supplemental Retirement Fund shall be held in trust and no funds paid into the fund as a gift, grant, bequest or donation to the fund shall be disbursed except as required by this act.

The Board of Trustees may invest any funds, either of the Local Firemen's Relief Fund or of the Supplemental Retirement Fund, in any investment named in or authorized by either G.S. 159-30 or G.S. 159-31, and shall invest all of the funds belonging to the Local Firemen's Relief Fund or the Supplemental Retirement Fund, in one or more investments. No investment in certificates of deposit or time deposits in any bank or trust company, or savings and loan associations, may exceed the amount insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, as the case may be, unless the deposits or investments in shares are secured in the manner provided by G.S. 159-30 or G.S. 159-31.

Sec. 5. Acceptance of Gifts. The Board of Trustees is authorized to accept any gift, grant, bequest or donation of money or instruments of value for the use of the Supplemental Retirement Fund.

Sec. 6. Bond of Treasurer. The Board of Trustees shall bond the Treasurer of the Local Firemen's Relief Fund and the Supplemental Retirement Fund in an amount equal to the amount of the funds in his care and control, payable to the Board of Trustees and conditional upon the faithful performance of his duties. This bond shall be in lieu of the bond required by G.S. 118:6 for the Local Firemen's Relief Fund. The Board of Trustees may
authorize payment of the premiums on the bond from the Supplemental Retirement Fund.

Sec. 7. Application Forms. (a) An application form must be properly filled out and approved by the Board of Trustees before any Supplemental Retirement funds may be paid.

(b) In order to arrive at an equitable disbursement for each year, applications shall be submitted to the Chief of the Edenton Fire Department by July 1 of the retirement year and shall note the month of the intended retirement.

(c) If an application is not submitted by time stated in subsection (b) of this section, it will be reviewed by the Board of Trustees at its next annual meeting.

Sec. 8. The provisions of this act may be changed only by three-fourths majority vote of the members of the Edenton Fire Department.

Sec. 9. Severability. If any provision of this act is declared invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions which can be given effect without the invalid provision. The provisions of this act are declared to be severable.

Sec. 10. Repealer. All laws and clauses of laws in conflict with this act are repealed.

Sec. 11. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of May, 1981.

H. B. 309 CHAPTER 287

AN ACT TO CHANGE RETIREMENT BENEFITS OF THE NORTH WILKESBORO SUPPLEMENTARY PENSION FUND.

The General Assembly of North Carolina enacts:

Section 1. Section 5.2(a) of the Charter of the Town of North Wilkesboro, as enacted by Chapter 263, Session Laws of 1977, is rewritten to read:

“(a) There shall continue to be a Supplementary Pension Fund for the fire department of the Town of North Wilkesboro, said fund to be known as the ‘North Wilkesboro Firemen’s Supplementary Fund’, hereinafter referred to as ‘Supplementary Pension Fund’, and said fund to be administered by a board of trustees composed of the town treasurer of the Town of North Wilkesboro, and the first assistant chief of the fire department of the Town of North Wilkesboro, and a third member of said board to be elected annually from the membership of the North Wilkesboro Fire Department by a majority vote of the chief and members of the fire department.”

Sec. 2. Section 5.2(d) of the Charter of the Town of North Wilkesboro, as amended by Chapter 854, Session Laws of 1979, is rewritten to read:

“(d) Any member who has served 20 years as a fireman in the North Wilkesboro Fire Department and has attained the age of 55 shall be entitled to receive a monthly pension from the ‘Supplementary Pension Fund’ in the applicable amount as set forth below:

<table>
<thead>
<tr>
<th>Retirement Age</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>20 years service and at least 55</td>
<td>$40.00</td>
</tr>
<tr>
<td>21 years service and at least 56</td>
<td>44.00</td>
</tr>
<tr>
<td>22 years service and at least 57</td>
<td>48.00</td>
</tr>
</tbody>
</table>
23 years service and at least 58
24 years service and at least 59
25 years service and at least 60

Sec. 3. Retired members of the fire department who were receiving the monthly pensions under the provisions of Section 5.2(d) of the Charter of the Town of North Wilkesboro as it existed prior to the effective date of Section 2 of this act shall be entitled to receive in lieu thereof monthly pensions in the applicable amounts as set forth in Section 2 of this act, beginning with the first full calendar month following the effective date of this act.

Sec. 4. Section 5.2 of the Charter of the Town of North Wilkesboro is further amended by adding the following new subsections:

"(j) If any active volunteer fireman of the Town of North Wilkesboro who has served at least 20 years as an active volunteer fireman of the Town of North Wilkesboro and who has arrived at the age of at least 55 shall die prior to such volunteer fireman's retirement, then the designated beneficiary of such volunteer fireman, or in the absence of a designated beneficiary the estate of such volunteer fireman, shall receive in a lump sum the retirement benefits that would be applicable to such volunteer fireman for a 24 month period, provided that the total death benefits paid to such beneficiary or estate shall not exceed one thousand two hundred dollars ($1,200).

(k) If any volunteer fireman of the Town of North Wilkesboro who has served at least 20 years as an active volunteer fireman of the Town of North Wilkesboro and who has arrived at the age of at least 55 shall retire and shall subsequently die before drawing the lesser of either 24 monthly retirement benefits applicable to such volunteer fireman as set forth in subsection (d) of this section or the sum of one thousand two hundred dollars ($1,200), then the designated beneficiary of such deceased volunteer fireman or in the absence of a designated beneficiary the estate of such volunteer fireman shall receive in a lump sum the amount equal to 24 monthly retirement benefits, less the amount of monthly retirement benefits received before death, provided that in no event shall the retirement benefits paid under this subparagraph to such retired volunteer fireman while living and to his beneficiary or estate after his death exceed one thousand two hundred dollars ($1,200)."

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of May, 1981.

H. B. 338

CHAPTER 288

AN ACT TO PROVIDE A SUPPLEMENTAL RETIREMENT FUND FOR FIREMEN IN THE TOWN OF WAYNESVILLE AND TO MODIFY THE APPLICATION OF G.S. 118-5, G.S. 118-6, AND G.S. 118-7 TO THE TOWN OF WAYNESVILLE.

The General Assembly of North Carolina enacts:

Section 1. Supplemental Retirement Fund Created. The Board of Trustees of the Local Firemen's Relief Fund of the Town of Waynesville, as established in accordance with G.S. 118-6, hereinafter called the Board of Trustees, shall create and maintain a separate fund to be called the Waynesville Firemen's Supplemental Retirement Fund, hereinafter called the Supplemental Retirement Fund, and shall maintain books of account for the Fund separate
from the books of account of the Local Firemen’s Relief Fund. The board of trustees shall pay into the Supplemental Retirement Fund the funds prescribed by this act.

Sec. 2. Transfers of Funds and Disbursements. Notwithstanding the provisions of G.S. 118-7, the Board of Trustees of the Local Firemen’s Relief Fund of the Town of Waynesville shall:

(a) prior to January 1, 1982, transfer to the Supplemental Retirement Fund all funds belonging to the Local Firemen’s Relief Fund in excess of forty thousand dollars ($40,000). The earnings of the Supplemental Retirement Fund, both interest and funds generated from investments authorized by Section 4 of this act, are to be returned to the Supplemental Retirement Fund. The board of trustees may accept any gift, grant, bequest, or donation of money for the use of the Supplemental Retirement Fund. No additional funds shall be added to the Supplemental Retirement Fund. The earnings of the Local Firemen’s Relief Fund and any State payments for the local Firemen’s Relief Fund are to be returned to the Local Firemen’s Relief Fund and are not to be added to the Supplemental Retirement Fund;

(b) as soon as practical after January 1, 1982, disburse the funds in the Supplemental Retirement Fund as supplemental retirement benefits in accordance with Section 3 of this act. When all the funds have been disbursed, the Supplemental Retirement Fund will cease to exist. No claim shall accrue with respect to any disbursements from the Supplemental Retirement Fund.

Sec. 3. Supplemental Retirement Benefits. Each retired fireman of the town, whether volunteer or paid, who has previously retired with 20 years service, or more, as a fireman of the Town of Waynesville and has reached the age of 55 years, shall be entitled to and shall receive fifty dollars ($50.00) per month for as long as the Supplemental Retirement Fund exists.

Sec. 4. Investment of Funds. The board of trustees may invest any funds, either of the Local Firemen’s Relief Fund or of the Supplemental Retirement Fund, in any investment named in or authorized by either G.S. 159-30 or G.S. 159-31, and shall invest all of the funds belonging to the Supplemental Retirement Fund in one or more such investments. Investment in certificates of deposit or time deposit in any bank or trust company, or in shares of any savings and loan association, shall not exceed the amount insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, as the case may be, unless the deposits or investments in shares are secured in the manner provided by G.S. 159-30 or G.S. 159-31.

Sec. 5. Bond of Treasurer. The board of trustees shall bond the treasurer of the Local Firemen’s Relief Fund with a good and sufficient bond, in an amount at least equal to the amount of funds in his control, payable to the board of trustees, and conditioned upon the faithful performance of his duties. The bond shall be in lieu of the bond required by G.S. 118-6. The board of trustees may pay the premiums for the bond of the treasurer from the Supplemental Retirement Fund.

Sec. 6. Town Authorized to Make Payment. The governing body of the Town of Waynesville may make appropriations and disburse funds to the Supplemental Retirement Fund.

Sec. 7. Severability. If any provisions of this act are declared invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions
hereof which can be given effect without the invalid provision, and to this end the provisions of this act are declared to be severable.

Sec. 8. Repealer. All laws and clauses of laws in conflict with this act are repealed.

Sec. 9. Effective Date. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of May, 1981.

H. B. 375

CHAPTER 289

AN ACT TO AMEND THE CHARTER OF THE CITY OF WINSTON-SALEM, RELATING TO UPTOWN DEVELOPMENT PROJECTS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Winston-Salem, being Chapter 232, Private Laws of 1927, as amended by Section 5 of Chapter 1023, Session Laws of 1973 (Second Session 1974), is further amended by adding a new Article XV to read:

"ARTICLE XV.

"Uptown Development Projects.

"Sec. 83. Uptown development projects. (a) Definition. In this Article, 'uptown development projects' means a capital project in the city's central business district, as defined by the Board of Aldermen, comprising one or more buildings or other improvements and including both public and private facilities. By way of illustration but not limitation, such a project might include a single building comprising a publicly owned parking structure and publicly owned convention center and a privately owned hotel or office building.

(b) Authorization. If the Board of Aldermen finds that it is likely to have a significant effect on the revitalization of the central business district, the city may acquire, construct, own, and operate or participate in the acquisition, construction, ownership, and operation of an uptown development project or of specific facilities within such a project, including the making of loans and grants, from federal or State grant funds. The city may enter into binding contracts with one or more private developers with respect to acquiring, constructing, owning, or operating such a project. Such a contract shall among other provisions, specify the following:

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

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

(c) Property acquisition. An uptown development project may be constructed on property acquired by the developer or developers or on property acquired by the city, by purchase or gift.

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

(e) Construction of the project. The contract between the city and the developer or developers may provide that the developer or developers shall be responsible for construction of the entire uptown development project. If so, the contract shall include such provisions as the Board of Aldermen deems sufficient to assure that the public facility or facilities included in the project meet the needs of the city and are constructed at a reasonable price. The proposed overhead crosswalk between the proposed Radisson Hotel and the City-owned parking facility in downtown Winston-Salem may be constructed without complying with the provisions of Article 8 of Chapter 143 of the General Statutes.

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

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

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of May, 1981.

H. B. 550  CHAPTER 290
AN ACT TO CHANGE THE DISTRIBUTION OF PROFITS OF THE HIGH POINT ABC BOARD.

The General Assembly of North Carolina enacts:

Section 1. Section 6, subsections (a) and (b) of Chapter 459 of the Session Laws of 1977, are amended to read:

“(a) Eight percent (8%) of said net profits shall be apportioned and paid into the General Fund of Guilford County.

(b) Ninety-two percent (92%) of said net profits shall be paid to the tax collector of the City of High Point, and may be used by the City of High Point for any public purposes.”

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of May, 1981.
AN ACT TO EXTEND TO VOLUNTEER FIREMEN SUPPLEMENTAL RETIREMENT BENEFITS IN THE CITY OF LENOIR.

The General Assembly of North Carolina enacts:

Section 1. The charter of the City of Lenoir, being Chapter 118, Session Laws of 1977, is amended by:

(1) deleting the word "Paid" in the fourth line of Section 5.2.A.; and
(2) substituting the words "paid or volunteer" for the words "fully-paid" in the first line of Section 5.2.C.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of May, 1981.

AN ACT TO ALLOW MECKLENBURG COUNTY TO ENACT ORDINANCES PROVIDING FOR FAIR HOUSING OPPORTUNITIES IN MECKLENBURG COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Equal Housing. A county board of commissioners may adopt ordinances prohibiting discrimination on the basis of race, color, sex, religion, or national origin in real estate transactions. These ordinances may regulate or prohibit any act, practice, activity or procedure related, directly or indirectly, to the sale or rental of public or private housing, which affects or may tend to affect the availability or desirability of housing on an equal basis to all persons; may provide that violations constitute a criminal offense; may subject the offender to civil penalties; and may provide that the county may enforce the ordinances by application to the district court for appropriate legal and equitable remedies, including mandatory and prohibitory injunctions and orders of abatement, attorney's fees and punitive damages. The District Court of the 26th Judicial District shall have jurisdiction to grant all remedies arising out of this act.

Sec. 2. Exemptions. Any ordinance enacted pursuant to this act may provide for the following exemptions from its coverage:

(1) the rental of housing accommodations in a building containing accommodations for not more than four families living independently of each other if the lessor or a member of his family resides in one of those accommodations;
(2) the rental of a room or rooms in a housing accommodation by an individual if he or a member of his family resides there;
(3) with respect to discrimination based on sex, the rental or leasing of housing accommodations in single-sex dormitory property;
(4) with respect to discrimination based on religion, to housing accommodations owned and operated for other than a commercial purpose by a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, if the sale, rental, or occupancy of the housing accommodation is limited or preference is given to persons of the
same religion, unless membership in the religion is restricted because of race, color, national origin, or sex;

(5) any person, otherwise subject to the provisions of this act, who adopts and carries out a plan to eliminate present effects of past discriminatory practices or to assure equal opportunity in real estate transactions, if the plan is part of a conciliation agreement entered into by that person under the provisions of this act.

Sec. 3. Enforcement. The county board of commissioners may create or designate a committee to assume the duty and responsibility of enforcing ordinances adopted pursuant to this act. The committee may be granted any authority the county board of commissioners consider necessary for the proper enforcement of any fair housing ordinance, including the powers to:

(1) promulgate rules for the receipt, initiation, investigation and conciliation of complaints of violations of this act;

(2) require answers to interrogatories, the production of documents and other evidence, and make entry upon land and premises in the possession of a party to a complaint alleging a violation of this act; compel the attendance of witnesses at hearings; administer oaths; and examine witnesses under oath or affirmation;

(3) apply to the court, upon the failure of any person to respond to or comply with a lawful interrogatory, request for production of documents and other evidence, request to make entry upon land and premises, or subpoena, for an order requiring the person to respond or comply;

(4) upon finding reasonable cause to believe that a violation of this act has occurred, to petition the district court for appropriate civil relief on behalf of the aggrieved person or persons.

Sec. 4. Complaints and other records. The county board of commissioners may provide that neither complaints filed with any committee pursuant to this act nor the results of the committee's investigations, discovery, or attempts at conciliation, in whatever form prepared and preserved, shall be subject to inspection, examination, or copying under the provisions of Chapter 132 of the General Statutes.

Sec. 5. Committee meetings. The county board of commissioners may provide that the statutory provisions relating to meetings of governmental bodies, prescribed in Article 33C of Chapter 143 of the General Statutes, shall not apply to the activity of any committee authorized to enforce the ordinance, to the extent that the committee is receiving a complaint or conducting an investigation, discovery, or conciliation pertaining to a complaint filed pursuant to this act.

Sec. 6. This act applies only to Mecklenburg County.

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of May, 1981.
H. B. 558  

CHAPTER 293  

AN ACT TO ALLOW MECKLENBURG COUNTY TO ASSIGN ANY OR ALL OF THE DUTIES OF THE BOARD OF ADJUSTMENT TO A PLANNING AGENCY.

The General Assembly of North Carolina enacts:

Section 1. The last sentence of G.S. 153A-345(a) is rewritten to read: "A county may designate a planning agency to perform any or all of the duties of a board of adjustment in addition to its other duties."

Sec. 2. This act applies to Mecklenburg County only.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of May, 1981.

H. B. 602  

CHAPTER 294  

AN ACT TO PROVIDE A SUPPLEMENTAL RETIREMENT FUND FOR FIREMEN IN THE CITY OF BELHAVEN.

The General Assembly of North Carolina enacts:

Section 1. Supplemental Retirement Fund Created. The Board of Trustees of the Local Firemen's Relief Fund of the City of Belhaven, as established in accordance with G.S. 118-6, hereinafter called the Board of Trustees, shall create and maintain a separate fund to be called the Belhaven Firemen's Supplemental Retirement Fund, hereinafter called the Supplemental Retirement Fund, and shall maintain books of account for this fund, separate from the books of account of the Local Relief Fund. The Board of Trustees shall pay into the Supplemental Retirement Fund all funds prescribed by this act.

Sec. 2. Transfers and Disbursement of Fund. Notwithstanding the provision of G.S. 118-7, the Board of Trustees shall:

(1) prior to January 1, 1982, and prior to January 1, of each calendar year thereafter, transfer to the Supplemental Retirement Fund all funds belonging to the Local Firemen's Relief Fund in excess of the amount of ten thousand dollars ($10,000);

(2) at any time the amount of funds in the Local Firemen's Relief Fund is less than ten thousand dollars ($10,000), by reason of disbursements authorized by G.S. 118-7, transfer to the Local Firemen's Relief Fund funds sufficient to maintain a balance of ten thousand dollars ($10,000);

(3) as soon as practical after January 1 of each year, but in no event later than February 1, divide either an amount equal to the total income of the Local Firemen's Relief Fund and the Supplemental Retirement Fund or an amount determined by the Board of Trustees into equal shares, and disburse these shares as prescribed by Section 3 of this act.

Sec. 3. Supplemental Retirement Benefits. Each retired fireman of the City of Belhaven who has retired with 20 years service or more as a fireman of the City of Belhaven and has reached the age of 55 years, or any fireman of the City of Belhaven who for any reason has become totally and permanently disabled and has served as a fireman of the City of Belhaven for five or more years, is entitled to and shall receive, in each calendar year following the calendar year in which he retires, one share for each full year of service as a fireman of the City of Belhaven. The amount of each share shall be determined
by dividing the total number of years served by all eligible firemen into the total amount set aside by the Board of Trustees to be disbursed for that calendar year.

Sec. 4. Investment of Funds. The Board of Trustees may invest any funds, either of the Local Firemen's Relief Fund or of the Supplemental Retirement Fund, in any investment named in or authorized by either G.S. 159-30 or G.S. 159-31, and shall invest all of the funds belonging to the Local Firemen's Relief Fund or the Supplemental Retirement Fund, in one or more such investments. Investment in certificates of deposit or time deposits in any bank or trust company, or savings and loan associations, shall not exceed the amount insured by the Federal Deposit Insurance Corporation, or the Federal Savings and Loan Insurance Corporation unless these deposits or investments in shares are secured in the manner provided by G.S. 159-30 or G.S. 159-31.

Sec. 5. Acceptance of Gifts. The Board of Trustees may accept any gift, grant, bequest or donation of money or instruments of value, for the use of the Supplemental Retirement Fund.

Sec. 6. Bond of Treasurer. The Board of Trustees shall bond the Treasurer of the Local Firemen's Relief Fund and the Supplemental Retirement Fund in an amount equal to the amount of the funds in his care and control, this bond being payable to the Board of Trustees. The bond shall be in lieu of the bond required by G.S. 118-6. The Board of Trustees may authorize payment of premiums for the Bond of the Treasurer from the Supplemental Retirement Fund.

Sec. 7. Severability. If any provision of this act is declared invalid by a court of competent jurisdiction, this invalidity shall not affect other provisions hereof which can be given effect without the invalid provision, and to this end the provisions of this act are declared to be severable.

Sec. 8. Repealer. All laws and clauses of laws in conflict with this act are repealed.

Sec. 9. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of May, 1981.

H. B. 615  
CHAPTER 295

AN ACT TO CHANGE THE DISTRIBUTION OF PROFITS OF THE TRYON ABC BOARD.

The General Assembly of North Carolina enacts:

Section 1. Section 6 of Chapter 939 of the 1951 Session Laws, as amended by Chapter 429 of the 1971 Session Laws is rewritten to read:

"Sec. 6. The Town Board of Alcoholic Control on a quarterly basis shall, after retaining a sufficient and proper working capital and payment of salaries and expenses, retain not less than five percent (5%) nor more than twenty percent (20%) of the net profits to ensure adequate law enforcement. The remaining net profits shall be distributed as follows:

five percent (5%) to the Harmon Field Commission solely for capital improvement useful in its recreational activities.

The remaining net profits shall be distributed as follows:
seventy percent (70%) to the town for any lawful public purpose; thirty percent (30%) to the Harmon Field Commission for maintenance and current operations of its recreational activities and programs.”

Sec. 2. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 1st day of May, 1981.

H. B. 658  CHAPTER 296

AN ACT TO AMEND THE CHARTER OF THE TOWN OF KILL DEVIL HILLS TO PROVIDE FOR FOUR-YEAR STAGGERED TERMS FOR THE MAYOR AND BOARD OF COMMISSIONERS, AND TO PROVIDE FOR THE COUNCIL-MANAGER FORM OF GOVERNMENT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 220, Session Laws of 1953, is rewritten to add a new section to read:

"Sec. 4.1. Council-manager form of government. (a) The town shall operate under the council-manager form of government in accordance with Part 2 of Article 7, Chapter 160A of the General Statutes. The town board of commissioners shall appoint a town manager, who shall serve at the pleasure of the board. The manager shall be chosen on the basis of executive and administrative qualifications, with special reference to actual experience in or knowledge of accepted practice with respect to the duties of a town manager. At the time of appointment, the manager need not be a resident of the town or State, but during his tenure of office shall reside within the town. The manager shall receive such compensation as the board may establish.

(b) The town manager shall be the administrative head of the town government, and shall be responsible to the board for the proper administration of all affairs of the town. Except as otherwise provided by this act, the town manager shall have all powers and duties assigned or delegated to a town manager by State law. The town manager shall appoint and may remove all town employees except the town clerk and the town attorney, and shall also perform such other duties as are prescribed by the board."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of May, 1981.

H. B. 681  CHAPTER 297

AN ACT REGARDING BEER SALES IN OCEAN ISLE BEACH.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding any other public or local act, the State ABC Board may issue an on-premises malt beverage permit to any establishment in Ocean Isle Beach which holds a mixed beverage permit.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of May, 1981.
H. B. 687  CHAPTER 298
AN ACT TO AMEND CHAPTER 363 OF THE 1969 SESSION LAWS CONCERNING THE RETIREMENT FUND FOR FIREMEN IN THE CITY OF NEWTON.

The General Assembly of North Carolina enacts:

Section 1. Section 3(2) of Chapter 363 of the 1969 Session Laws is amended by substituting the word “one” for the words “one-half of one”.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of May, 1981.

H. B. 720  CHAPTER 299
AN ACT REGARDING APPOINTMENT OF THE DURHAM ABC BOARD.

The General Assembly of North Carolina enacts:

Section 1. The Durham ABC Board consists of three members appointed for three-year terms. The members are appointed by the board of county commissioners, county board of health, and county board of education. The appointments are made at a joint meeting of those three boards, with each person having one vote, even if a person is a member of more than one board.

Notwithstanding any public or local act, any member of the Durham ABC Board may succeed himself.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of May, 1981.

S. B. 149  CHAPTER 300
AN ACT TO AUTHORIZE THE DEPARTMENT OF ADMINISTRATION TO PETITION FOR THE ANNEXATION OF STATE-OWNED LANDS INTO MUNICIPALITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-341(4) is amended by adding a new subsection following G.S. 143-341(4)m. to be designated G.S. 143-341(4)n. to read as follows:

“n. To petition for the annexation of State-owned lands into any municipality.”

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of May, 1981.
CHAPTER 303

AN ACT TO PROVIDE FOR AUXILIARY SERVICES AT THE NORTH CAROLINA MUSEUM OF ART.

The General Assembly of North Carolina enacts:

Section 1. G.S. 140-5.14 is amended by adding the following subdivision to read:

"(13) To provide auxiliary services at the North Carolina Museum of Art. Such services may include the sale of books, periodicals, art works, art supplies and providing facilities for the operation of food and beverage services. The operation of food and beverage services shall be by contract with private enterprises, and subject to the provisions of Article 3 of G.S. Chapter 111."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of May, 1981.

CHAPTER 302

AN ACT TO REPEAL THE REQUIREMENT OF G.S. 147-59 THAT STATE WARRANTS BE PRESENTED FOR PAYMENT WITHIN SIXTY DAYS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 147-59, 147-60, and 147-61 are repealed.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of May, 1981.

CHAPTER 303

AN ACT TO REQUIRE COUNTY BOARDS OF ELECTIONS TO CAUSE VOTING MACHINES AND AUTOMATIC VOTE COUNTERS TO BE EXAMINED PRIOR TO THEIR USE IN AN ELECTION.

The General Assembly of North Carolina enacts:

Section 1. Article 4 of Chapter 163 of the General Statutes is amended to add a new section to read:

"§ 163-33.2. Chairman and county board to examine voting machines.—Prior to each primary and general election the chairman and members of the county board of elections, in counties where voting machines are used, shall test vote, in a reasonable number of combinations, no less than 10 percent (10%) of all voting machines programmed for each primary or election, such machines to be selected at random by the board after programming has been completed, and further, the board shall record the serial numbers of the machines test voted in the official minutes of the board. In the alternative, the board may cause the test voting required herein to be performed by persons qualified to program and test voting equipment."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of May, 1981.
CHAPTER 304  Session Laws—1981

H. B. 548  CHAPTER 304

AN ACT TO PROHIBIT A COUNTY BOARD OF ELECTIONS FROM MAKING A RECOUNT WHEN THE STATE BOARD HAS DENIED A RECOUNT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-175 is rewritten to read as follows:

"§ 163-175. County board of elections to canvass returns.—On the second day (Sunday excepted) next after every primary and election, the county board of elections shall meet at 11:00 A.M. at the county courthouse to canvass the votes cast in the county and prepare the county abstracts. If the returns from any precinct have not been received by the county board by 12:00 noon on that day, or if the returns of any precinct are incomplete or defective, the board shall have authority to dispatch a peace officer to the residences of the election officials of the delinquent precinct for the purpose of securing proper returns for that precinct.

In the presence of such persons as choose to attend, the members of the county board of elections shall open the precinct returns, canvass and judicially determine the results of the voting in the county, and prepare and sign duplicate abstracts showing:

(1) In a primary, the total number of votes cast in each precinct and in the county for each candidate of each political party for each office.

(2) In an election, the number of legal votes cast in precinct for each candidate, the name of each person voted for, the political party with which he is affiliated, and the total number of votes cast in the county for each person for each different office.

In complying with the provisions of this section, the county board of elections shall have power and authority to pass judicially upon all facts relative to the primary or election, to make or order such recounts as it deems necessary, and to determine judicially the result of the primary or election. Provided, however, that where a petitioner has been denied a recount upon a verbal or written order of the State Board of Elections pursuant to regulations of the State Board, the county board of elections shall not make or order a further recount. The board shall also have power to send for papers and persons and to examine them and to pass upon the legality of any disputed ballots transmitted to it by any precinct election official.

When, on account of errors in tabulating returns and filling out abstracts, the result of a primary or election in any one or more precincts cannot be accurately known, the county board of elections shall be allowed access to the ballot boxes in such precincts to make or order a recount and to declare the result."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of May, 1981.
H. B. 616 CHAPTER 305
AN ACT TO ESTABLISH THE SAME DEADLINE FOR ONE STOP ABSENTEE VOTING AND ABSENTEE VOTING BY MAIL AND TO FIX THE BEGINNING DATE FOR ONE STOP VOTING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-227, as the same appears in the 1979 Supplement to Volume 3D of the General Statutes, is amended by substituting the word “Thursday” for the word “Wednesday” wherever it appears.

Sec. 2. G.S. 163-227.2(b), as the same appears in the 1979 Supplement to Volume 3D of the General Statutes, is amended by substituting in the first sentence thereof the words “Not earlier than the day following the day on which the registration books close” in lieu of the words “Not earlier than 30 days.”

Sec. 3. G.S. 163-230(2)a. and G.S. 163-230(3)c., as the same appears in the 1979 Supplement to Volume 3D of the General Statutes are amended by substituting “Thursday” for “Wednesday” wherever it appears therein.

Sec. 4. G.S. 163-232, as the same appears in the 1979 Supplement to Volume 3D of the General Statutes, is amended by substituting “Thursday” for “Wednesday” where it appears in the oath specified therein.

Sec. 5. This act is effective with respect to all elections occurring on or after July 1, 1981.

In the General Assembly read three times and ratified, this the 4th day of May, 1981.

H. B. 769 CHAPTER 306
AN ACT TO AUTHORIZE INSURANCE COMPANIES TO MAKE LOANS TO OFFICERS ON AN EQUAL BASIS AS LOANS TO OTHER EMPLOYEES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 58 of the General Statutes is hereby amended by insertion in Section 79, subparagraph (b)(3), in line six of the third full paragraph thereunder, immediately following the words “of such insurer”, the following:

“, or prevent any life insurance company in connection with the relocation of the place of employment of an officer, including any relocation in connection with the initial employment of such officer, from (i) making (or such officer from accepting therefrom) a mortgage loan to such officer on real property owned by such officer which is to serve as such officer’s residence or (ii) acquiring (or such officer from selling thereto), at not more than the fair market value thereof, the residence of such officer.”.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of May, 1981.
CHAPTER 307  Session Laws—1981

H. B. 788  CHAPTER 307

AN ACT TO DELETE REFERENCES TO LOCAL HEALTH OR SOCIAL SERVICES DEPARTMENTS IN STATUTES DEALING WITH PRISON INMATES.

The General Assembly of North Carolina enacts:

Section 1. Article 20 of G.S. Chapter 130 is amended by deleting in the title of the Article the words "of State Institutions".

Sec. 2. G.S. 130-191, as it appears in the 1981 Replacement Volume 3B of the General Statutes, is amended in line 1 by deleting the words "or charitable hospital or" and in line 4 by deleting the words "mental or".

Sec. 3. G.S. 130-191 is further amended by deleting the last sentence of the first paragraph and substituting therefor the following:

"Any surgical operations on inmates of State penal institutions shall also be subject to the provisions of Article 1A of Chapter 90 of the General Statutes and G.S. 90-21.13 and G.S. 90-21.14."

Sec. 4. The first four lines of G.S. 130-191.1, as it appears in the 1981 Replacement Volume 3B of the General Statutes, are amended by deleting the words "When a board comprised of the Secretary of Correction, the chief medical officer of a prison hospital or penal institution, and a representative of the State or county social services department of the county where the prisoner is confined, shall convene and find" and substituting therefor the following:

"When the Secretary of Correction finds".

Sec. 5. G.S. 130-191.1 is further amended by deleting in line 9 the words "made by this board".

Sec. 6. G.S. 130-191.1 is further amended by deleting in lines 11-13 the words "local health director, as defined by G.S. 130-3, or in the event a local health director is not immediately available then the local health director of any adjoining or nearby area," and substituting therefor the words "chief medical officer of the prison hospital or prison institution".

Sec. 7. G.S. 130-191.1 is further amended by adding a new sentence at the end to read as follows:

"Any treatment of self inflicted injuries shall also be subject to the provisions of G.S. 90-21.13 and 90-21.14."

Sec. 8. G.S. 130-191, as amended above, is hereby transferred to G.S. Chapter 148 to be designated as a new G.S. 148-22.1.

Sec. 9. G.S. 130-191.1, as amended above, is hereby transferred to G.S. Chapter 148 to be designated as a new G.S. 148-46.2.

Sec. 10. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of May, 1981.
H. B. 841  CHAPTER 308
AN ACT TO CLARIFY THE PROCEDURE FOR REMOVING THE NAMES FROM THE REGISTRATION RECORDS OF PERSONS WHO HAVE MOVED TO ANOTHER COUNTY OR STATE OR WHO HAVE DIED AND TO REMOVE OBSOLETE REFERENCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-69, as the same appears in Volume 3D of the General Statutes, is amended by rewriting the second and third sentences in the fourth paragraph to read:

"Also, at any time, including the time required by this section for mandatory purging of persons who have not voted for the specified period, the county board of elections shall remove from the permanent registration records the names of all persons who have moved their residence from the county as indicated by cancellation notices received from other counties and other states and shall remove the names of those persons who have died according to the certified list received from the Department of Human Resources. Prior to removing any person's name from the registration records for failure to vote as specified in the mandatory purge provision, the county board of elections shall cause to be mailed to the person affected, at the address shown on the permanent registration records, a notice to show cause why his registration should not be voided."

Sec. 2. G.S. 163-72(a), as the same appears in the Cumulative Supplement to Volume 3D of the General Statutes, is amended by substituting in the second sentence of the first paragraph the words "After signing the certification," in lieu of "After being sworn,".

Sec. 3. G.S. 163-251(a) 1., as the same appears in Volume 3D of the General Statutes, is amended by deleting the words and punctuation ", whose original applications are herewith filed with the State Board of Elections".

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of May, 1981.

H. B. 866  CHAPTER 309
AN ACT TO REPEAL AN OBSOLETE PROVISION OF THE GENERAL STATUTES RELATING TO PARDON OF PRISONERS.

Whereas, State prisoners are not committed to the custody of the Board of Transportation (formerly State Highway and Public Works Commission); and

Whereas, prisoners are now committed to the custody of the Department of Correction in which is located the Parole Commission, which has the responsibility for advising the Governor with respect to pardons and commutations and which has access to all prisoner records; and

Whereas, G.S. 147-22, as the same appears in the 1978 Replacement Edition of the General Statutes of North Carolina, is for the reasons stated above obsolete; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 147-22, as the same appears in the 1978 Replacement Edition of the General Statutes of North Carolina, is hereby repealed.

Sec. 2. This act is effective upon ratification.

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In the General Assembly read three times and ratified, this the 4th day of May, 1981.

H. B. 601  \textbf{CHAPTER 310}
AN ACT TO ALLOW THE TOWN OF ENFIELD TO COLLECT A TAX OF NOT MORE THAN THREE DOLLARS ON MOTOR VEHICLES.

\textit{The General Assembly of North Carolina enacts:}

\textbf{Section 1.} G.S. 20-97(a) is amended by adding immediately after the words "Town of Weldon" the words "Town of Enfield".

\textbf{Sec. 2.} This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of May, 1981.

H. B. 660  \textbf{CHAPTER 311}
AN ACT TO PERMIT THE TOWN OF BETHEL TO IMPOSE A TAX ON AUTOMOBILES OF THREE DOLLARS.

\textit{The General Assembly of North Carolina enacts:}

\textbf{Section 1.} G.S. 20-97 is amended by adding immediately after the words "Town of Garner" the words "Town of Bethel".

\textbf{Sec. 2.} This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of May, 1981.

H. B. 665  \textbf{CHAPTER 312}
AN ACT TO PERMIT ALL CITIES AND TOWNS IN DARE COUNTY TO COLLECT AUTOMOBILE TAX OF AN AMOUNT NOT TO EXCEED FIVE DOLLARS.

\textit{The General Assembly of North Carolina enacts:}

\textbf{Section 1.} G.S. 20-97(a) is amended by adding immediately after the word "Cumberland" each time it appears the word "Dare".

\textbf{Sec. 2.} This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of May, 1981.

H. B. 440  \textbf{CHAPTER 313}
AN ACT TO ESTABLISH THE FEE FOR EXECUTION OF PASSPORT APPLICATION BY CLERKS OF SUPERIOR COURT.

\textit{The General Assembly of North Carolina enacts:}

\textbf{Section 1.} G.S. 7A-308(a) is amended by adding a new subdivision to read:

"(14a) Execution of passport application — the amount allowed by Federal Law."

\textbf{Sec. 2.} This act shall become effective 30 days after ratification.

In the General Assembly read three times and ratified, this the 4th day of May, 1981.
The General Assembly of North Carolina enacts:

Section 1. G.S. 20-162.1 is amended by deleting the words and figures "one dollar ($1.00)" as the same appears in the second paragraph and substituting in lieu thereof the words and figures "five dollars ($5.00)".

Sec. 2. This act applies to the Town of Fremont and the City of Goldsboro only.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of May, 1981.

H. B. 574

CHAPTER 315

AN ACT TO ALLOW THE TOWN OF KENANSVILLE TO INCREASE THE TAX LEVY ON MOTOR VEHICLES TO A MAXIMUM OF FIVE DOLLARS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 1308 of the 1979 Session Laws, Second Session, 1980, is hereby rewritten to read as follows: "Section 1. G.S. 20-97(a) is amended by adding immediately after the words 'City of Charlotte' each time those words appear the words ', the Town of Magnolia, the Town of Rose Hill, the Town of Wallace, the Town of Kenansville'.

"Sec. 2. Section 2 of Chapter 433, Session Laws of 1977 is amended by adding immediately after the words 'City of Charlotte' the words 'the Town of Magnolia, the Town of Rose Hill, the Town of Wallace, the Town of Kenansville'.

"Sec. 3. This act is effective upon ratification."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of May, 1981.

H. B. 582

CHAPTER 316

AN ACT TO CONFIRM THE CORPORATE LIMITS AND RATIFY ACTIONS OF THE CITY OF BAKERSVILLE IN MITCHELL COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The corporate limits of the City of Bakersville shall extend one-half mile in all directions from the dome of the Mitchell County courthouse in Bakersville.

Sec. 2. (a) Any and all official acts, actions, expenditures, and levies of taxes or assessments by the Mayor and Board of Aldermen of the City of Bakersville since March 20, 1933, with respect to or affecting the territory and properties described in Section 1 of this act are hereby ratified, validated, and confirmed.

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(b) All elections and the results thereof previously held in and for the City of Bakersville are hereby validated.

Sec. 3. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 4th day of May, 1981.

H. B. 645 CHAPTER 317
AN ACT TO INCORPORATE THE TOWN OF ROBINWOOD IN GASTON COUNTY, SUBJECT TO A REFERENDUM.

The General Assembly of North Carolina enacts:

Section 1. (a) The Board of Elections in Gaston County is hereby authorized and directed to call and conduct a special election on November 3, 1981, for the purpose of submitting to the qualified voters of the area hereinafter described as the proposed corporate limits of the Town of Robinwood, the question of whether or not such area shall be incorporated as a municipal corporation to be known as the Town of Robinwood. In conducting the election required to be held by this act, the Board of Elections of Gaston County shall follow the procedures contained in this act and the procedures contained in Chapter 163 of the General Statutes of North Carolina regarding municipal elections, where the same are not in conflict with this act.

(b) Not later than 20 days prior to the date on which the registration books are required to be closed, the Board of Elections in Gaston County shall cause to be published one or more times in a newspaper having general circulation in the Robinwood community, a notice stating the time, the polling place, and purpose of this special election; the names of the registrar and judges of election; and the dates, hours, and places of registration. The Board of Elections may, in its discretion, also cause such notice to be posted in such public place or places as the board may choose.

(c) In the special election, those voters who favor the incorporation of the Town of Robinwood as provided in this act shall vote a ballot upon which shall be printed the words: "FOR Incorporation of the Town of Robinwood", and those voters who are opposed to the incorporation of the Town of Robinwood as provided in this act shall vote a ballot upon which shall be printed the words "AGAINST Incorporation of the Town of Robinwood".

Sec. 2. If the majority of the votes cast in such special election shall be cast "AGAINST Incorporation of the Town of Robinwood" then the "Charter of the Town of Robinwood" as set forth in this act shall have no force and effect.

Sec. 3. If a majority of the votes cast in the special election shall be cast "FOR Incorporation of the Town of Robinwood", then the "Charter of the Town of Robinwood" as set forth in this act shall be in full force and effect from and after the date upon which a certificate of election shall have been issued by the Chairman of the Gaston County Board of Elections in accordance with the procedures of G.S. 163-301.

Sec. 4. If a majority of the votes cast in the special election shall be cast "FOR Incorporation of the Town of Robinwood", then notwithstanding the time limitations contained in the Local Government Budget and Fiscal Control Act (Article 3 of G.S. Chapter 159), the governing body of the Town of Robinwood is authorized to consider and adopt a budget ordinance, including a
property tax levy, as soon after the effective date of incorporation as is possible. The residents of the Town of Robinwood and the property located within the Town of Robinwood shall be liable for all municipal taxes imposed by the Town of Robinwood governing body for the fiscal year 1981-82, and each fiscal year thereafter. The town may obtain from Gaston County, and the county shall provide upon request a record of property within the corporate limits which was listed for taxation as of January 1, 1981.

Property taxes levied for the fiscal year 1981-82 by the Town of Robinwood as authorized by this section shall be due and collected as provided in G.S. 160A-58.10 in the case of taxes levied for part of the year following annexation.

Sec. 5. The following provisions of law shall constitute the Charter of the Town of Robinwood:

"ARTICLE I.

"The Charter of the Town of Robinwood.

"Incorporation and Corporate Powers.

"Section 1.1. Incorporation and General Powers. The inhabitants of the Town of Robinwood are a body corporate and politic under the name of the Town of Robinwood. Under that name they have all the powers, duties, rights, privileges and immunities conferred and imposed upon municipal corporations by the general law of North Carolina.

"ARTICLE II.

"Corporate Boundaries.

"Sec. 2.1. The corporate boundaries of the Town of Robinwood, until changed in accordance with law, shall be as set out on a map entitled 'Boundary Map of the Town of Robinwood'. The said map is maintained in the Office of the Town Clerk, as required by G.S. 160A-22. The initial corporate limits shall be as follows:

Beginning at a point, the intersection of the center lines of Union Road (N.C. 274) and Newport Road (Airport Road) and runs with the center of Newport Road (Airport Road - S.R. #2444) approximately 8,740 feet, more or less, to the northeast corner of Gaston Day School property; thence with the school pine and the west line of Woodleigh Sub S 18°-29'E a distance of 1883.74 feet to an iron pin; thence continuing with Woodleigh’s lines the following curves and distances: N 48-38-30 E a distance of 855.55 feet to an iron; thence S 49-33 E a distance of 1448.77 feet to an iron pin; thence N 43-09 E a distance of 464.15 feet to a concrete mon.; thence N 57-37 E a distance of 304.0 feet to a concrete mon.; thence N 31-17-30 E a distance of 366.3 feet to a concrete mon.; thence S 53-15-24 E a distance of 866.20 feet to an iron pin; thence N 44-58-36 E a distance of 853.97 feet to an iron pin; thence N 35-35-37 W a distance of 375.1 feet to an iron pin; thence N 51-09-48'E a distance of 710.63 to a iron pin; thence N 49-44-15 W a distance of 1530.21 feet to a point on Woodleigh East property line and 200 feet in a Southeasterly direction from the center line of Newport Road (S.R. 2444); thence with a line 200.0 feet in a Southerly direction from and parallel to Newport Road a distance of 4,120 feet, more or less, to the center line of Southampton Road (S.R. 2445); thence with the center line of Southampton Road in a westerly direction 7,540 feet, more or less, to a point in said road, said point being located 500.0 feet measured at right angles from Robinwood Road (S.R. 2461); thence with a line parallel and 500.0 feet in distance from said Robinwood Road 3,595 feet, more or less, to a point located
500.0 feet in distance from measured at right angles from Union Road (N.C. 274); thence with a line 500 feet from and parallel to Union Road a distance of 650 feet, more or less, to a point in the Northerly property line of Colonial Gas Company; thence with said Gas Company’s Northerly property line in a Westerly direction 500 feet, more or less, to the center of Union Road; thence with the center of Union Road 6,170.0 feet, more or less, to the beginning.

"ARTICLE III.
"Governing Body.

"Sec. 3.1. Structure of Governing Body: Number of Members. The governing body of the Town of Robinwood is the Town Council, which has five members.

"Sec. 3.2. Manner of Election of Mayor and Council. The Mayor and Council shall be elected by the qualified voters of the entire town in 1981 and biennially thereafter for two-year terms.

"ARTICLE IV.
"Elections.

"Sec. 4.1. Conduct of Town Elections. Town officers shall be elected on a nonpartisan basis and the results determined by a plurality of the votes cast, as provided by G.S. 163-292.

"ARTICLE V.
"Administration.

"Sec. 5.1. Form of Government. The Town of Robinwood shall operate under the mayor-council form of government as provided in Part 3 of Article 7 of Chapter 160A of the General Statutes.

"ARTICLE VI.
"Interim Council.

"Sec. 6.1. Interim Council. Until the regular municipal election to be held in 1983, Wilson Boshamer is appointed as Mayor of the Town of Robinwood and John R. Thomas, J. K. Lewis, Edith B. Darwin, David Dickerson, and William L. Craige, Jr., are appointed as members of the council. The mayor and members of the council appointed by this section shall serve until their successors are elected and qualify."

Sec. 6. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 4th day of May, 1981.

H. B. 686

CHAPTER 318

AN ACT AUTHORIZING THE TOWN OF OCEAN ISLE BEACH TO ASSESS FOR NAVIGATION PROJECTS, INCLUDING DREDGING AND BULKHEADING OF CANALS.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 440, Session Laws of 1979, is amended by deleting the words “Town of Holden Beach only.” and inserting in lieu thereof the words “Towns of Holden Beach and Ocean Isle Beach only.”

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 4th day of May, 1981.
H. B. 606  

CHAPTER 319

AN ACT AUTHORIZING THE TOWN OF GARNER TO RECEIVE AND ACCEPT FUNDS PROVIDED BY A DEVELOPER TO THE TOWN FOR ACQUISITION OF RECREATIONAL LAND AND VALIDATING PRIOR ACCEPTANCE BY THE TOWN OF FUNDS PROVIDED BY DEVELOPERS IN LIEU OF DEDICATION OF LAND FOR PARK, RECREATION, OR OPEN SPACE SITES.

The General Assembly of North Carolina enacts:

Section 1. In addition to the contents and requirements of a subdivision control ordinance as authorized by G.S. 160A-372, the Town of Garner in a subdivision control ordinance may provide that a developer may provide funds to the Town whereby the Town may acquire recreational land or areas to serve the development or subdivision, including the purchase of land which may be used to serve more than one subdivision or development.

Sec. 2. All prior acts by the Town of Garner in receiving and accepting funds from persons who developed or subdivided land as a payment of funds in lieu of dedication of a portion of such land for recreation areas are hereby validated in all respects.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of May, 1981.

H. B. 691  

CHAPTER 320

AN ACT TO ALLOW CITIES AND TOWNS IN DARE COUNTY TO MAKE STREET IMPROVEMENTS AND ASSESS WITHOUT PETITION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 160A of the General Statutes is amended by adding a new Article to read:

"ARTICLE 10A.

"Street Assessments Without Petition.

"§ 160A-293.1. Assessments for street improvements; petition necessary.—(a) In addition to any authority which is now or hereafter may be granted to a city by this Chapter or in its Charter, a city is hereby authorized to make street improvements and to assess the total cost thereof against abutting property owners in accordance with the provisions of this section.

(b) The council may order street improvements and assess the costs thereof against the abutting property owners, exclusive of the costs incurred at street intersections, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes without the necessity of a petition, upon the finding by the Board as a fact that the street improvement project does not exceed 2,000 linear feet, and

(1) such street or part thereof is unsafe for vehicular traffic, and it is in the public interest to make such improvements, or

(2) that it is in the public interest to connect two streets, or portions of a street already improved, or

(3) that it is in the public interest to widen a street, or part thereof, which is already improved, provided, that assessments for widening any street or portion of street without a petition under this subdivision shall be
limited to the cost of widening and otherwise improving such streets in accordance with the street classification and improvement standards established by the Town’s thoroughfare or major street plan for the particular street or part thereof to be widened and improved under the authority granted by this Article.

(c) For the purpose of this Article, the term 'street improvement' shall include grading, regrading, surfacing, resurfacing, widening, paving, repaving, the acquisition of right-of-way, and the construction or reconstruction of curbs, gutters and street drainage facilities.

“§160A-293.2. Procedure.—In ordering street improvements without a petition and assessing the cost thereof under authority of this Article, the Board shall comply with the procedure provided by Article 10 of this Chapter, except those provisions relating to the petition of property owners and the sufficiency thereof.”

Sec. 2. This act applies only to incorporated cities and towns within Dare County.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of May, 1981.

H. B. 727

CHAPTER 321

AN ACT TO MAKE REVISIONS IN THE CHARTER OF THE TOWN OF EDETON.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Edenton, as found in Chapter 491, Session Laws of 1975 is amended by rewriting Section 1-2 to read:

“Sec. 1-2. Corporate boundaries. The corporate boundaries of the Town of Edenton shall be as follows until changed in accordance with law:

Beginning at the Northwestern corner of the intersection of Hubley Drive leading to the Carter Ink Plant and N. C. Highway #32; thence along the Northern margin of N. C. Highway #32, a curve, R = 1493 feet, 561 feet to a point in the Northern margin of N. C. Highway #32 at the center of a branch of Queen Anne Creek; thence along said branch South 24 degrees 20 minutes West 1,075 feet to a point; thence along said branch South 84 degrees 45 minutes West 635 feet to a point; thence along said branch South 27 degrees 40 minutes West 1,680 feet to a point in Queen Anne Creek; thence along Queen Anne Creek South 87 degrees 45 minutes West 890 feet to a point; thence along Queen Anne Creek North 45 degrees 45 minutes West 1,035 feet to a point; thence leaving Queen Anne Creek and entering Edenton Bay South 84 degrees 00 minutes West 1,491 feet to a point in Edenton Bay; thence North 55 degrees 15 minutes West 2,135 feet to a point in Pembroke Creek; thence along Pembroke Creek South 63 degrees 30 minutes West 1,065 feet to a point; thence along Pembroke Creek South 50 degrees 00 minutes West 1,105 feet to a point; thence along Pembroke Creek North 55 degrees 40 minutes West 575 feet to a point; thence South 79 degrees 45 minutes West 470 feet to a point at the shoreline of Pembroke Creek; thence North 89 degrees 00 minutes West 4,968.5 feet to a point; thence North 5 degrees 00 minutes East 520 feet to a point; thence North 88 degrees 00 minutes West 284 feet to a point; thence North 6 degrees 00 minutes East 598 feet to a point; thence South 81 degrees 40 minutes East 75
feet to a point; thence North 08 degrees 20 minutes East 174 feet to a point in the Southern margin of West Queen Street Extended and U. S. Highway #17; thence along the Southern margin of U. S. Highway #17 South 81 degrees 40 minutes East 193 feet; thence North 05 degrees 00 minutes East 1,580 feet to a point; thence South 85 degrees 00 minutes East 1,083 feet to a point; thence North 26 degrees 40 minutes East 308 feet to a point in the shoreline of Pembroke Creek; thence North 74 degrees 05 minutes East 2,205 feet to a point; thence North 27 degrees 00 minutes East 2,625 feet to a point; thence South 66 degrees 16 minutes East 3,160.5 feet to a point; thence North 72 degrees 05 minutes East 600 feet to a point in the Earnhardt-Burroughs property line; thence the following courses to and along N. C. Highway #32: North 19 degrees 48 minutes West 120.88 feet; North 59 degrees 18 minutes West 100.61 feet; North 49 degrees 26 minutes West 98.22 feet; North 41 degrees 19 minutes West 118.12 feet; North 17 degrees 50 minutes West 114.33 feet; North 29 degrees 43 minutes West 108.09 feet; North 9 degrees 55 minutes West 100.36 feet; North 8 degrees 31 minutes East 88.90 feet; North 8 degrees 09 minutes West 106.39 feet; North 1 degree 30 minutes East 112.30 feet; North 21 degrees 30 minutes East 360.00 feet; North 35 degrees 21 minutes East 62.34 feet; North 29 degrees 14 minutes West 18.02 feet; North 20 degrees 10 minutes West 17.69 feet; North 24 degrees 10 minutes East 58.08 feet; North 58 degrees 46 minutes East 20.97 feet; North 19 degrees 58 minutes East 31.01 feet; North 75 degrees 47 minutes East 1251.13 feet; North 83 degrees 17 minutes East 125.53 feet; South 39 degrees 13 minutes East 312.17 feet; North 50 degrees 48 minutes East 10.00 feet; South 39 degrees 28 minutes East 312.33 feet to a point in the south right of way of N. C. Highway #32; thence North 52 degrees 56 minutes East 850 feet to a point; thence North 70 degrees 02 minutes East 2,020 feet to a point in the Western line of Main Street Extended at Eden Heights; thence North 26 degrees 52 minutes East 1,543.4 feet to a point; thence North 16 degrees 23 minutes East 368.2 feet to a point; thence South 68 degrees 05 minutes East 396.7 feet to a point; thence North 66 degrees 05 minutes East 255 feet to a point; thence South 67 degrees 20 minutes East 100 feet to a point on the west margin of county road #1319; thence along the said county road South 15 degrees West 185.2 feet to a point; thence South 49 degrees 33 minutes East 1,552 feet to a point; thence North 54 degrees 00 minutes East 881 feet to a point; thence along a curve, R = 2865 feet, 396 feet to a point; thence North 47 degrees 00 minutes East 520 feet to a point in the Southwestern margin of Peanut Drive; thence North 57 degrees 50 minutes West 894.5 feet to a point; thence North 40 degrees 55 minutes East 1,347.5 feet to a point; thence North 69 degrees 00 minutes East 218.4 feet to a point; thence North 70 degrees 00 minutes East 266 feet to a point; thence North 71 degrees 45 minutes East 300 feet to a point; thence South 57 degrees 10 minutes East 804.7 feet to a point; thence North 47 degrees 00 minutes East 653 feet to a point; thence South 33 degrees 35 minutes West 994 feet to a point; thence South 33 degrees 15 minutes West 320 feet to a point; thence South 36 degrees 15 minutes East 2,021 feet to a point; thence South 50 degrees 15 minutes West 504 feet to a point; thence along a curve, R = 1433 feet, 418 feet to a point; thence South 49 degrees 00 minutes West 653 feet to a point; thence South 33 degrees 35 minutes West 3,058 feet to a point; thence South 81 degrees 50 minutes East 1,722 feet to a point; thence South 47 degrees 48 minutes East 670 feet to a point; thence South 63 degrees 35 minutes East 239 feet to a point; thence South 41 degrees
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10 minutes West 2,297 feet to a point; thence South 61 degrees 10 minutes West 1,284 feet to a point in the Northeastern margin of N. C. Highway #32; thence North 61 degrees 10 minutes West 876 feet along the Northeastern margin of N. C. Highway #32, to a point, the point and place of beginning, said description being taken from survey prepared by Carlyle C. Webb, Registered Surveyor, dated February 5, 1975, entitled 'Town of Edenton, N. C. Corporate Limits'. Earnhardt and Burroughs property and area northwest of county road #1319 added to description of said Webb by Jasper W. Hassell, Registered Land Surveyor."

Sec. 2. Section 2-1 of the Charter of the Town of Edenton is rewritten to read:

"Sec. 2-1. Composition; election; term. The legislative body of the Town of Edenton shall consist of a Mayor and a Board of Councilmen composed of six councilmen to be elected as follows: The councilman from each of the four wards as described in Sec. 3-2 shall be elected by the voters of that councilman’s respective ward, and candidate for such office shall have been a resident of the ward from which he is a candidate for a period of not less than 30 days next preceding the date of the election. The candidate in each of the four wards receiving the largest number of votes cast in that ward shall be declared elected councilman from the ward in which he is candidate. The candidate running for the at-large position receiving the largest number of votes cast by all the voters of the town shall be declared elected councilman at large.

Councilmen are elected to four-year staggered terms. In the regular election in November, 1981, and each four years thereafter, there shall be elected a councilman at large and councilmen from the third and fourth wards. In the regular election in November, 1983, and each four years thereafter, there shall be elected a councilman at large and councilmen from the first and second ward.

The Mayor shall be elected biennially and serve for a term of two years.”

Sec. 3. Section 2-2 of the Charter of the Town of Edenton is amended in the second paragraph by deleting the words “two councilmen”, and inserting in lieu thereof “two or more councilmen”.

Sec. 4. Section 2-4 of the Charter of the Town of Edenton is amended by deleting the words “, and the treasurer elected as provided in this charter,”.

Sec. 5. Section 4-1(3)(d) of the Charter of the Town of Edenton is amended by deleting the words “commissioner of finance and revenue”, and inserting in lieu thereof “finance committee chairman”.

Sec. 6. Section 4-1(3)(g) of the Charter of the Town of Edenton is amended by inserting immediately after the words “Director of Utilities”, the words “, Finance Officer”.

Sec. 7. Sections 4-4, 4-5 and 4-6 of the Charter of the Town of Edenton are repealed.

Sec. 8. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of May, 1981.
H. B. 728  

CHAPTER 322  
AN ACT TO AMEND THE CHARTER OF THE CITY OF WASHINGTON TO ALLOW HISTORIC DISTRICT, HISTORIC PROPERTIES AND BUILDING INSPECTIONS JURISDICTION BETWEEN ONE AND ONE AND ONE-HALF MILES FROM THE CITY LIMITS.

The General Assembly of North Carolina enacts:

Section 1. Article XI of the Charter of the City of Washington, as the same appears in Chapter 163 of the Session Laws of 1963, is hereby amended to read as follows:

"ARTICLE XI.

"PLANNING AND REGULATION OF DEVELOPMENT.

"Sec. 11.1. Extraterritorial Powers. The City shall have and may exercise all of the powers set out in Article 19 of Chapter 160A of the General Statutes of North Carolina, as the same may from time to time be amended, within an area which it shall define; provided, that the boundaries of such area shall not extend more than one and one-half miles beyond its corporate limits."

Sec. 2. Section 19.4 (Subdivision Control Authority) of the Charter of the City of Washington, as the same appears in Section 1(b) of Chapter 280 of the Session Laws of 1965, is hereby repealed.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of May, 1981.

S. B. 95  

CHAPTER 323  
AN ACT TO PERMIT ALL SCHOOL EMPLOYEES PAID FROM STATE FUNDS AND EMPLOYED ON A 10-MONTH BASIS TO CHOOSE TO BE PAID IN 12 MONTHLY INSTALLMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-157(2) is amended after the first sentence by adding:

"Provided that, any individual teacher employed for a term of 10 calendar months may be paid in 12 monthly installments if the teacher so requests on or before the first day of the school year. Such request shall be filed in the administrative unit which employs the teacher. The payment of the annual salary in 12 installments instead of 10 shall not increase or decrease said annual salary nor in any other way alter the contract made between the teacher and the said administrative unit."

Sec. 2. G.S. 115-157(5) is amended after the first sentence by adding:

"Provided that, any individual school employee employed for a term of 10 calendar months may be paid in 12 monthly installments if the employee so requests on or before the first day of the school year. Such request shall be filed in the administrative unit which employs the employee. The payment of the annual salary in 12 installments instead of 10 shall not increase or decrease said annual salary nor in any other way alter the contract between the employee and the said administrative unit."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of May, 1981.
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S. B. 174    CHAPTER 324
AN ACT TO PROHIBIT DEER HUNTING WITH CENTERFIRE RIFLES IN CABARRUS COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It is unlawful to take deer with centerfire rifles in Cabarrus County.

Sec. 2. Violation of this act is a misdemeanor punishable by a fine of not less than fifty dollars ($50.00) nor more than two hundred fifty dollars ($250.00), or imprisonment for a period not to exceed 30 days, or both, in the discretion of the court.

Sec. 3. All lawful peace officers of the county and State who are authorized to enforce the hunting laws are authorized to enforce this act.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of May, 1981.

S. B. 297    CHAPTER 325
AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO LEASE THE RIGHT-OF-WAY OF INTERSTATE HIGHWAY 40 TO THE CITY OF WINSTON-SALEM FOR A PARKING FACILITY.

The General Assembly of North Carolina enacts:

Section 1. The Department of Transportation is hereby authorized and empowered to lease to the City of Winston-Salem the portion of the right-of-way of Interstate Highway 40 below the elevated roadway and lying between Trade Street and Liberty Street, exclusive of any railroad right-of-way, for a parking facility, the lease to provide for subleasing of the right-of-way in whole or in part by the City of Winston-Salem for private parking; provided, in the opinion of the Department of Transportation such parking facility will not unreasonably interfere with or impair any property rights and easements of abutting owners, unreasonably interfere with or obstruct the public use of Interstate Highway 40 nor unreasonably interfere with or obstruct the maintenance of the highway structure located on the right-of-way.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of May, 1981.

S. B. 407    CHAPTER 326
AN ACT TO TRANSFER WATERSHED APPROVAL AUTHORITY FOR WATERSHED WORKPLANS AND THE USE OF CHANNELIZATION TO THE SOIL AND WATER CONSERVATION COMMISSION AND TO CLARIFY CHAPTER 139 OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 139-4(d), as the same appears in the 1978 Replacement Volume 3C of the General Statutes, is amended by the addition of a new subparagraph (8), which reads as follows:

“(8) To supervise and review small watershed work plans pursuant to G.S. 139-41.1 and G.S. 139-47.”
Sec. 2. G.S. 139-26(d), as the same appears in the 1978 Replacement Volume 3C of the General Statutes, is hereby amended by substituting the words “Soil and Water Conservation Commission” for the words “Environmental Management Commission” at each place they occur; and by substituting the reference “G.S. 139-41.1(e)” for the statutory reference “G.S. 139-35(e)” in line 23 of the section.

Sec. 3. G.S. 139-35, as the same appears in the 1978 Replacement Volume 3C of the General Statutes, is hereby amended to read as follows:

"§ 139-35. Supervision by Soil and Water Conservation Commission.—Watershed improvement districts as provided for under this Article shall be subject to the supervision by the Soil and Water Conservation Commission pursuant to G.S. 139-41.1 to the same extent as are counties operating watershed improvement programs authorized under Article 3 of this Chapter."

Sec. 4. G.S. 139-38 is renumbered as G.S. 139-44; is amended by rewriting the title to read “Power of eminent domain conferred on counties.”; is further amended by changing all references to a “watershed improvement district” or “district” in G.S. 139-38(a) and 139-38(c) and (d) to read “county”; and is further amended by changing all references to “trustees of the district” and “trustees” in G.S. 139-38(e) to read “board of county commissioners” and “board”, respectively.

Sec. 5. G.S. 139-41(e), as the same appears in the 1978 Replacement Volume 3C of the General Statutes, is hereby repealed.

Sec. 6. A new section is added to Chapter 139 of the General Statutes to read as follows:

“§ 139-41.1. Review of watershed work plans.—(a) Watershed work plans developed under Public Law 566 (83rd Congress) as amended, and all other work plans developed pursuant to this Chapter, shall be submitted to the Soil and Water Conservation Commission for review and approval or disapproval. No work of improvement may be constructed or established without the approval of work plans by the Soil and Water Conservation Commission pursuant to this section.

(b) The Soil and Water Conservation Commission shall approve a watershed work plan if, in its judgment, it:

(1) provides for proper and safe construction of proposed works of improvement;
(2) shows that the construction and operation of the proposed works of improvement (in conjunction with other such works and related structures of the district and the watershed) will not appreciably diminish the flow of useful water that would otherwise be available to existing downstream water users during critical periods;
(3) determines whether a program of flood plain management in connection with such proposed works is in the public interest, and the Soil and Water Conservation Commission may withhold approval until satisfactory flood plain management measures are incorporated; and
(4) is otherwise in compliance with law.

(c) Amendments to the work plan involving major changes shall be approved by the Soil and Water Conservation Commission. Determinations by the Soil and Water Conservation Commission that an amendment involves major changes shall be conclusive for purposes of this section. No work of improvement may be constructed or established without the approval of work
plans by the Soil and Water Conservation Commission pursuant to this subsection. The construction or establishment of any such work of improvement without such approval, or without conforming to a work plan approved by the Soil and Water Conservation Commission, may be enjoined. The Soil and Water Conservation Commission may institute an action for such injunctive relief in the superior court of any county wherein such construction or establishment takes place.

(d) In conjunction with any work plans submitted to the Soil and Water Conservation Commission under subsection (c) of this section, a county shall submit in such form as the Soil and Water Conservation Commission may prescribe a plan of its proposed method of operations for works of improvement covered by the work plans and for related structures. With the approval of the Soil and Water Conservation Commission, the county may amend its initial plan of operations from time to time. Soil and Water Conservation Commission approval of the initial plan of operations shall not be required.

(e) If the Soil and Water Conservation Commission has reason to believe that a county is not operating any work of improvement or properly related structure in accordance with its plan of operations as amended, the Soil and Water Conservation Commission on its own motion or upon complaint may order a hearing to be held thereon upon not less than 30 days’ written notification to the county and complainant, if any, by personal service or registered mail. Notice of such hearing shall be published at least once a week for two successive weeks. In connection with any such hearing the Soil and Water Conservation Commission shall be empowered to administer oaths; to take testimony; and, in the same manner as the superior court, to order the taking of depositions, issue subpoenas, and to compel the attendance of witnesses and production of documents. If the Soil and Water Conservation Commission determines from evidence of record that the county is not operating any work of improvement or related structure in accordance with its plan of operations, as amended, the Soil and Water Conservation Commission may issue an order directing the county to comply therewith or to take other appropriate corrective action. Upon failure by a county to comply with any such order, the Soil and Water Conservation Commission may institute an action for injunctive relief in the superior court of any county wherein such noncompliance occurs.”

Sec. 7. G.S. 139-44 is renumbered as G.S. 139-38 and is rewritten to read as follows:

“§ 139-38. The power of eminent domain conferred on watershed improvement districts.—A watershed improvement district shall have the same powers as conferred on counties operating watershed improvement programs by G.S. 139-44 (as the same may be amended from time to time), subject to the limitations and procedures prescribed therein. For this purpose, a watershed improvement district shall be considered as a county and the trustees of the applicant district shall be considered as the board of county commissioners.”

Sec. 8. G.S. 139-47, as the same appears in the 1978 Replacement Volume 3C of the General Statutes, is hereby amended by substituting the words “Soil and Water Conservation Commission” for the words “Environmental Management Commission” at each place they occur; and subsection (c) is further amended to read as follows:
“(c) Following publication of the notice, the Soil and Water Conservation Commission or its designee shall hold a public hearing in the county or counties wherein any part of the project lies to allow interested parties to be heard concerning the proposed project. The following provisions together with others the Soil and Water Conservation Commission may prescribe shall be applicable to hearings pursuant to this section:

(1) All hearings shall be before the Soil and Water Conservation Commission or its authorized agent, and the hearing shall be open to the public.

(2) A full and complete record of all proceedings shall be taken by a reporter appointed by the Soil and Water Conservation Commission. Any party to a proceeding shall be entitled to a copy of such record upon payment of the reasonable cost as determined by the Soil and Water Conservation Commission.

(3) Any hearing will provide to all parties an opportunity to make written or oral submissions concerning the proposed project.

(4) Following any hearing, the Soil and Water Conservation Commission shall afford the parties a reasonable opportunity to submit within such time as prescribed by the Commission, proposed findings of fact and any brief in connection therewith.”

Sec. 9. G.S. 139-53, as the same appears in the 1979 Supplement to Volume 3C of the General Statutes, is hereby amended to read as follows:

“§ 139-53. State Soil and Water Conservation Commission authorized to accept applications.—The State Soil and Water Conservation Commission is authorized to accept applications for grants for nonfederal costs relating to small watershed projects authorized under Public Law 566 (83rd Congress as amended) from local sponsors of such projects properly organized under the provisions of either Chapter 156 of the General Statutes of North Carolina or Chapter 139 of the General Statutes of North Carolina, or from county service districts authorized by G.S. 153A-301, or from municipal service districts authorized by G.S. 160A-536. Applications shall be made on forms prescribed by the Commission.”

Sec. 10. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of May, 1981.

S. B. 403  
CHAPTER 327

AN ACT TO MANDATE THE ACCRUAL OF INTEREST ON MONEY JUDGMENTS AWARDED IN ACTIONS OTHER THAN CONTRACT FROM THE FILING OF THE CLAIM.

The General Assembly of North Carolina enacts:

Section 1. The second sentence of G.S. 24.5 is rewritten to read:

“The portion of all money judgments designated by the fact-finder as compensatory damages in actions other than contract shall bear interest from the time the action is instituted until the judgment is paid and satisfied, and the judgment and decree of the court shall be rendered accordingly. The preceding sentence shall apply only to claims covered by liability insurance. The portion of all money judgments designated by the fact-finder as compensatory damages in actions other than contract which are not covered by liability insurance shall
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bear interest from the time of the verdict until the judgment is paid and satisfied, and the judgment and decree of the court shall be rendered accordingly."

Sec. 2. G.S. 24-7 is amended by deleting the word "When" and substituting in lieu thereof the phrase "Except with respect to compensatory damages in actions other than contract as provided in G.S. 24-5, when".

Sec. 3. This act is effective upon ratification but shall not apply to pending litigation.

In the General Assembly read three times and ratified, this the 5th day of May, 1981.

H. B. 505  
CHAPTER 328

AN ACT TO AUTHORIZE TRANSFER OF INSTITUTIONALIZED PATIENTS WITHOUT NOTICE ONLY FOR EMERGENCY MEDICAL TREATMENT, EMERGENCY EVALUATION OR EMERGENCY SURGERY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122-55.6, as it appears in the 1979 Cumulative Supplement to Volume 3B, is amended on lines 23 and 24 by deleting the words “Except in case of transfer for emergency surgery” and substituting therefor the words “Except in case of transfer for emergency medical treatment, emergency medical evaluation, or emergency surgery.”

Sec. 2. G.S. 122-55.6 is further amended by adding a new sentence at the end of the second paragraph to read as follows:

“When a patient is transferred to another facility solely for medical reasons, the patient shall be returned to the original facility when the medical care is completed.”

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of May, 1981.

H. B. 547  
CHAPTER 329

AN ACT TO PROVIDE THAT CERTAIN ADDITIONAL ANCIENT MINERAL CLAIMS ARE EXTINGUISHED IN CERTAIN COUNTIES; AND THAT CERTAIN OIL, GAS AND MINERAL INTERESTS ARE TO BE RECORDED IN SUCH COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 1 of the North Carolina General Statutes is hereby amended by adding G.S. 1-42.6 thereto and to read as follows:

“§ 1-42.6. Additional ancient mineral claims extinguished in certain counties; oil, gas and mineral interests to be recorded in such counties.—(a) Where it appears on the public records that the fee simple title to any oil, gas or mineral interest in an area of land has been severed or separated from the surface fee simple ownership of such land and such interest is not in actual course of being mined, drilled, worked or operated, or in the adverse possession of another, any person having legal capacity to own land in this State, who has an unbroken chain of title of record to such surface estate of such area of land for at least 30 years and provided such surface estate is not in the adverse possession of
another, shall be deemed to have a marketable title to such surface estate as provided in the succeeding subsections of this section, subject to such interests and defects as are inherent in the provisions and limitations contained in the muniments of which such chain of record title is formed.

(b) Such marketable title shall be held by such person and shall be taken by his successors in interest free and clear of any and all such fee simple oil, gas or mineral interest in such area of land, the existence of which depends upon any reservation or exception contained in an instrument conveying the surface estate in fee simple which was recorded prior to such 30-year period, and such oil, gas or mineral interests are hereby declared null and void and of no effect whatever at law or in equity; provided, however, that any such fee simple oil, gas or mineral interest may be preserved and kept effective by recording within such 30-year period, a notice in writing duly sworn to and subscribed before an official authorized to take probate by G.S. 47-1, which sets forth the nature of such oil, gas or mineral interest and gives the book and page where recorded. Such notice shall be probated as required for registration of instruments by G.S. 47-14 and recorded in the office of the register of deeds of the county wherein such area of land, or any part thereof lies, and in the book thereof kept or provided under the terms of G.S. 1-42 for the purpose of recording certain severances of surface and subsurface land rights, and shall state the name and address of the claimant, and the name of the surface owner and also contain either such a description of the area of land involved as to make said property readily located thereby or due incorporation by reference of the recorded instrument containing the reservation or exception of such oil, gas or mineral interest. Such notice may be made and recorded by the claimant or by any other person acting on behalf of any claimant who is either under a disability, unable to assert a claim on his own behalf, or one of a class but whose identity cannot be established or is uncertain at the time of filing such notice of claim for record.

(c) This section shall be construed to effect the legislative purpose of facilitating land title transactions by extinguishing certain ancient oil, gas or mineral claims unless preserved by recording as herein provided. The oil, gas or mineral claims hereby extinguished shall include those of persons whether within or without the State, and whether natural or corporate, but shall exclude governmental claims, State or federal, and all such claims by reason of unexpired oil, gas or mineral releases.

(d) The Board of County Commissioners shall publish a notice of this section within 90 days after the ratification date, and within 90 days prior to the effective date of this act. Such notice shall be published once per week for four consecutive weeks in a newspaper published in the counties of Avery, Burke, Mitchell and Watauga, or a newspaper having general circulation in those counties.

The provisions of this section shall apply to the following county: Avery."

Sec. 2. G.S. 1-42.3 is hereby repealed in its application to Avery County only.

Sec. 3. This act shall become effective June 30, 1982.

In the General Assembly read three times and ratified, this the 5th day of May, 1981.
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S. B. 408  

CHAPTER 330

AN ACT TO PROVIDE FOR SOIL AND WATER CONSERVATION DISTRICT SUPERVISOR RECOMMENDATIONS TO BE MADE BY THE FULL BOARD OF SUPERVISORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 139-7, as the same appears in the 1979 Supplement to Volume 3C of the General Statutes, is hereby amended by deleting the word "elective" where it appears in line six and in line 29 and substituting therefor the phrase "board of".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of May, 1981.

H. B. 327  

CHAPTER 331

AN ACT TO INCREASE THE NUMBER OF MEMBERS ON THE MECKLENBURG COUNTY ALCOHOLIC CONTROL BOARD FROM THREE TO FIVE.

The General Assembly of North Carolina enacts:

Section 1. The first paragraph of G.S. 18A-16(a) is amended by deleting the words "two other members" and substituting in lieu thereof the words "four other members".

Sec. 2. One of the new members appointed under this act shall serve for his first term a period of two years, and the other new member appointed shall serve for his first term a period of one year, both terms beginning with the date of their appointment. After each term has expired, each term thereafter shall be for three years and appointments shall be made in the manner prescribed in G.S. 18A-16.

Sec. 3. All appointments shall be made by joint meeting of the board of county commissioners, the county board of health, and the county board of education. Each person voting at this joint meeting shall have only one vote, notwithstanding the fact that there may be instances in which some persons are members of another board.

Sec. 4. This act applies to Mecklenburg County only.

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of May, 1981.

H. B. 381  

CHAPTER 332

AN ACT TO AMEND CHAPTER 87, ARTICLE 2, OF THE GENERAL STATUTES, RELATING TO PLUMBING, HEATING AND AIR CONDITIONING CONTRACTORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 87-21 is amended by the addition of a new subsection (f) which provides as follows:

"(f) The Board may, in its discretion, grant to plumbing or heating contractors licensed by other states license of the same or equivalent classification without written examination upon receipt of satisfactory proof
that the qualifications of such applicants are substantially equivalent to the qualifications of holders of similar licenses in North Carolina and upon payment of the usual license fee."

Sec. 2. G.S. 87-22 is amended on lines 3 and 4 by deleting the two uses of the word "of" after the word "fee" and substituting therefor the words "not exceeding".

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of May, 1981.

H. B. 649

CHAPTER 333

AN ACT TO EXTINGUISH ANCIENT SUBSURFACE OIL, GAS OR MINERAL INTERESTS IN LAND IN ALLEGHANY COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Article 4 of Chapter 1 is amended by adding a new section, G.S. 1-42.7, to read:

"§ 1-42.7. Additional ancient oil, gas or mineral interests extinguished; recording interests; listing interests for taxation.—(a) Where it appears on the public records that the fee simple title to any oil, gas or mineral interests in an area of land has been severed or separated from the surface fee simple ownership of such land and this interest is not in actual course of being mined, drilled, worked or operated, or in the adverse possession of another, or that the record titleholder of any oil, gas or mineral interests has not listed the same for ad valorem tax purposes in the county in which it is located for a period of 10 years prior to February 1, 1981, any person having the legal capacity to own land in this State who has on July 1, 1981, an unbroken chain of title of record to the surface estate of the area of land for at least 50 years, and provided the surface estate is not in the adverse possession of another, shall be deemed to have a marketable title to the surface estate as provided in the succeeding subsections of this section, subject to any interests and defects as are inherent in the provisions and limitations contained in the muniments that form the chain of record title.

(b) This marketable title shall be held by such person and shall be taken by his successors in interest free and clear of any and all fee simple oil, gas or mineral interests in the area of land founded upon any reservation or exception contained in an instrument conveying the surface estate in fee simple that was executed or recorded at least 50 years or more prior to July 1, 1981, and such oil, gas or mineral interests are hereby declared to be null and void and of no effect whatever at law or in equity: Provided, however, that any fee simple oil, gas or mineral interest may be preserved and kept effective by recording within two years after July 1, 1981, a notice in writing duly sworn to and subscribed before an official authorized to take probate by G.S. 47-1, which sets forth the nature of the oil, gas or mineral interest and gives the book and page where recorded. This notice shall be probated as required for registration of instruments by G.S. 47-14 and recorded in the office of the register of deeds of the county wherein the area of land, or any part thereof, lies, and in the book therein kept or provided under the terms of G.S. 1-42 for the purpose of recording certain severances of surface and subsurface land rights, and shall state the name and address of the claimant and, if known, the name of the surface owner and also

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contain either such a description of the area of land involved as to make the property readily located thereby or due incorporation by reference of the recorded instrument containing the reservation or exception of such oil, gas or mineral interest. The notice may be made and recorded by the claimant or by any other person acting on behalf of any claimant who is either under a disability, unable to assert a claim on his own behalf, or one of a class but whose identity cannot be established or is uncertain at the time of filing such notice of claim for record.

(c) This section shall be construed to effect the legislative purpose of facilitating land title transactions by extinguishing certain ancient oil, gas or mineral claims unless preserved by recording as herein provided. The oil, gas or mineral claims hereby extinguished shall include those of persons whether within or without the State, and whether natural or corporate, but shall exclude governmental claims, State or federal, and all such claims by reason of unexpired oil, gas or mineral releases.

(d) Within two years from July 1, 1981, all oil, gas or mineral interests in lands severed or separated from the surface fee simple ownership must be listed for ad valorem taxes and notice of such interest must be filed in writing in the manner provided by G.S. 1-42.3(b) and recorded in the local registry in the book provided by G.S. 1-42 to be effective against the surface fee simple owner or creditors, purchasers, heirs or assigns of such owner. Subsurface oil, gas and mineral interests shall be assessed for ad valorem taxes as real property and such taxes shall be collected and foreclosed in the manner authorized by Chapter 105 of the General Statutes of North Carolina. The board of county commissioners shall publish a notice of this section within 180 days after the effective date of this act. Such notice shall be published once per week for four consecutive weeks in a newspaper published in the county, or a newspaper of general circulation in the county."

Sec. 2. This act applies only to Alleghany County.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of May, 1981.

H. B. 682        CHAPTER 334

AN ACT TO ALLOW THE TOWN OF HOLDEN BEACH TO HOLD CERTAIN STREET ASSESSMENTS IN ABEYANCE.

The General Assembly of North Carolina enacts:

Section 1. Whenever any assessment is made under G.S. 160A-216(1) by the Town of Holden Beach as to High Point Street, Greensboro Street, Scotch Bonnet Drive, Sand Dollar Drive, Swordfish Drive, or Sailfish Drive, and the governing body finds that any property to be assessed is not developable because of federal or State laws or regulations, the assessment resolution may provide that an assessment levied under that subsection may be held in abeyance without interest until such property can be developed with a habitable dwelling, provided however, that any such assessment is automatically cancelled 15 years after it is levied if it is still being held in abeyance. Upon termination of the period of abeyance, the assessment shall be paid in accordance with the terms set out in the assessment resolution.
All statutes of limitations are suspended during the time that any assessment is held in abeyance without interest.

Sec. 2. This act applies to the Town of Holden Beach only.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of May, 1981.

H. B. 771 CHAPTER 335
AN ACT TO CLARIFY JUVENILE CODE PROVISIONS RELATING TO TEMPORARY CUSTODY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-572(a)(3)a. is amended to insert in the last sentence after the word “judge” and before “for” the words “or person delegated authority pursuant to G.S. 7A-573 if other than the intake counselor”.

Sec. 2. G.S. 7A-572(a)(3)b. is amended to insert in the last sentence after the word “judge” and before “for” the words “or person delegated authority pursuant to G.S. 7A-573”.

Sec. 3. This act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 7th day of May, 1981.

H. B. 773 CHAPTER 336
AN ACT TO CLARIFY THE DEFINITION OF JUVENILE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-517(20) is amended by deleting the second sentence and by substituting the following: “For the purposes of subsections (12) and (28) of this section, a juvenile is any person who has not reached his 16th birthday and is not married, emancipated, or a member of the Armed Forces. A juvenile who is married, emancipated, or a member of the Armed Forces, shall be prosecuted as an adult for the commission of a criminal offense.”

Sec. 2. This act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 7th day of May, 1981.

H. B. 867 CHAPTER 337
AN ACT TO CHANGE THE MEETING DATES OF THE PUBLIC LIVESTOCK MARKET ADVISORY BOARD.

Whereas, G.S. 106-407.1 presently requires the Public Livestock Market Advisory Board to meet at least once a year to consider applications for permits to operate livestock markets; and

Whereas, in some years no new applications are received and it is unnecessary for the Board to meet; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-407.1 is amended by deleting in the second sentence of the second paragraph the words “It shall also be the duty of the members of the Board to meet at least once each year” and by substituting the following: “The Board may meet once each year”.

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Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 7th day of May, 1981.

H. B. 852  CHAPTER 338
AN ACT TO CLARIFY AUTHORITY OF EXISTING MILK INSPECTION PERMIT SYSTEM.
The General Assembly of North Carolina enacts:

Section 1. G.S. 106-267 is amended in the 8th line by inserting between the words “products,” and “and” the following:
“to provide for the issuance of permits upon compliance with this Article and the rules and regulations promulgated thereunder”.

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 7th day of May, 1981.

S. B. 207  CHAPTER 339
AN ACT TO CLARIFY PROVISIONS REGARDING PAYMENT OF MEDICAL EXPENSES IN OCCUPATIONAL DISEASE CASES.
The General Assembly of North Carolina enacts:

Section 1. G.S. 97-59 is rewritten to read as follows:
“§ 97-59. Employer to provide treatment.—Medical, surgical, hospital, nursing services, medicine, sick travel, rehabilitation services and other treatment as may reasonably be required to tend to lessen the period of disability or provide needed relief shall be paid by the employer in cases in which awards are made for disability or damage to organs as a result of an occupational disease after bills for same have been approved by the Industrial Commission.
In case of a controversy arising between the employer and employee relative to the continuance of medical, surgical, hospital or other treatment, the Industrial Commission may order such further treatments as may in the discretion of the Commission be necessary.”

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 7th day of May, 1981.

S. B. 367  CHAPTER 340
AN ACT TO REWRITE THE DEFINITION SECTION OF G.S. CHAPTER 130 RELATING TO HEALTH SERVICES.
The General Assembly of North Carolina enacts:

Section 1. G.S. 130-3(e) is amended by deleting the comma and substituting the word “and” after the words “district board of health” on line 1 and deleting everything after the word “health” the first time it appears on line 2.

Sec. 2. G.S. 130-3(f) is amended by deleting the comma and substituting the word “and” after the words “district health department” on line 1 and deleting everything after the word “department” the first time it appears on line 2.
Sec. 3. G.S. 130-3(g) is amended by deleting the words "city health officer, city-county health officer."

Sec. 4. G.S. 130-3(h) is amended by adding, after the word "organization," the words "unit of local government."

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of May, 1981.

S. B. 333

CHAPTER 341

AN ACT TO PROVIDE A SUPPLEMENTAL RETIREMENT FUND FOR FIREMEN IN THE CITY OF HENDERSONVILLE AND TO MAKE G.S. 118-5, G.S. 118-6, AND G.S. 118-7 APPLY TO THE CITY OF HENDERSONVILLE.

The General Assembly of North Carolina enacts:

Section 1. Supplemental retirement fund created. The Board of Trustees of the Local Firemen's Relief Fund of the City of Hendersonville, as established in accordance with G.S. 118-9, hereinafter called the board of trustees, shall create and maintain a separate fund to be called the Hendersonville Firemen's Supplemental Retirement Fund, hereinafter called the supplemental retirement fund, and shall maintain books of account for this fund separate from the books of account of the Firemen's Local Relief Fund of the City of Hendersonville, hereinafter called the local relief fund. The board of trustees shall pay into the supplemental retirement fund the funds prescribed by this act.

Sec. 2. Transfers of funds and disbursements. Notwithstanding the provisions of G.S. 118-7, the Board of Trustees of the Local Firemen's Relief Fund of the City of Hendersonville shall:

(1) Prior to July 1, 1981, transfer to the supplemental retirement fund all funds, including earnings on investments, of the local relief fund in excess of ten thousand dollars ($10,000);

(2) In each subsequent calendar year, and within 30 days after receipt from the city treasurer of the annual funds paid to the local relief fund by authority of G.S. 118-5, transfer to the supplemental retirement fund these funds;

(3) At any time within six months when the amount of funds in the local relief fund are, by reason of disbursements authorized by G.S. 118-7, less than ten thousand dollars ($10,000), transfer from the supplemental retirement fund to the local relief fund an amount sufficient to maintain in the local relief fund the sum of ten thousand dollars ($10,000);

(4) As soon as practicable after January 1 of each year, but in no event later than July 1, divide the income earned in the preceding calendar year upon investments of funds belonging to the Local Firemen's Relief Fund into equal shares and disburse the same as supplemental retirement benefits in accordance with Section 3 of this act.

Sec. 3. Supplemental retirement benefits. (a) Each retired fireman of the city who has previously retired with 30 years' service, or more, as a city fireman is entitled to and shall receive in each calendar year following the calendar year in which he retires the following supplemental retirement benefits. In no event shall any retired fireman be entitled to or receive in any year an annual benefit
in excess of nine hundred dollars ($900.00), which amount is defined herein as a “share”:

(1) one share for each full year of service as a full-time and fully paid fireman of the city;

(2) one-half (50%) of one share for each full year of service as a volunteer fireman of the city;

(3) the surviving spouse of a full-time or volunteer fireman, who dies after retirement from a full-time or a volunteer position is entitled to (a) one share for each full year of service that her deceased spouse served as a full-time and fully paid fireman of the city, or (b) one-half (50%) of one share for each full year of service that her deceased spouse served as a volunteer fireman of the city. This right of benefits payable to a surviving spouse shall continue for a maximum of 16 consecutive years. Each year of benefits drawn by the retired fireman prior to his death shall be counted as one of the maximum years permissible and the benefits payable to the surviving spouse shall be reduced accordingly;

(4) if a full-time or volunteer fireman attains the age of 55 years and 20 years of service, and then retires, he, or his surviving spouse, is entitled to benefits equivalent to two-thirds (66-2/3%) of one share in conformance with Section 3(a)(1), (2) and (3) of this act. If retirement occurs at the age of 55 years and with more than 20 years of service, then the portion of the share to be paid shall be increased according to a mathematical formula established by the board of trustees. If retirement occurs at the age of 55 years and with 30 years or more of service, then full benefits shall be paid in accordance with these sections;

(5) all benefits are payable on a quarterly basis.

(b) Any former fireman of the city, either full-time and fully paid or volunteer, who is not otherwise entitled to supplemental retirement benefits under subsection (a) of this section, shall nevertheless be entitled to the benefits in any calendar year in which the board of trustees makes the following written findings of fact:

(1) that he initially retired from his position as a fireman because of his inability, by reason of sickness or injury, to perform the normal duties of an active fireman; and

(2) that, within 30 days prior to or following his initial retirement as a fireman, at least two physicians licensed to practice medicine in North Carolina certified that he was at that time unable, by reason of sickness or injury, to perform the normal duties of an active fireman; and

(3) that, at the time of his initial retirement as a fireman, there was not available to him in the fire department or in any other department of the city, a position of employment, the normal duties of which he was capable of performing; and

(4) that, since the preceding January 1, at least two physicians licensed to practice medicine in North Carolina have certified that he remains unable, by reason of sickness or injury, to perform the normal duties of an active fireman; and

(5) that there remains unavailable to him in the fire department, or in any other department of the city, a position of employment, the normal duties of which he is capable of performing.
The board of trustees, after initially making the findings of fact specified in subdivisions (1), (2), (3), (4) and (5) of this subsection, need not specify the findings in subsequent calendar years.

Sec. 4. Investment of funds. The board of trustees may invest any funds, either of the local relief fund or of the supplemental retirement fund, in any investment named in or authorized by either G.S. 159-30 or G.S. 159-31, and shall invest all of the funds of the supplemental retirement fund in one or more investments. Investment in certificates of deposit or time deposits in any bank or trust company, or in shares of any building and loan or savings and loan association, shall not exceed the amounts insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation unless the deposits or investments in shares are secured in the manner provided by G.S. 159-30.

Sec. 5. Acceptance of gifts. The board of trustees may accept any gift, grant, bequest, or donation of money for the use of the supplemental retirement fund.

Sec. 6. Bond of treasurer. The board of trustees shall bond the treasurer of the local relief fund with a good and sufficient bond, in an amount at least equal to the amount of funds in his control, payable to the board of trustees, and conditioned upon the faithful performance of his duties. This bond shall be in lieu of the bond required by G.S. 118-6. The board of trustees shall pay the premiums of the bond of the treasurer.

Sec. 7. If any provision of this act shall be declared invalid by a court of competent jurisdiction, this invalidity shall not affect other provisions hereof which can be given effect without the invalid provision, and to this end the provisions of this act are declared to be severable.

Sec. 8. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 9. This act shall become effective July 1, 1981, and authorizes payments coming due on or after this date.

In the General Assembly read three times and ratified, this the 8th day of May, 1981.

S. B. 346

CHAPTER 342

AN ACT TO AMEND THE CHARTER OF THE CITY OF WILMINGTON REGARDING THE CIVIL SERVICE COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 495, Session Laws of 1977, being the Charter of the City of Wilmington, is amended by making the following changes in Section 11.6(c):

(1) In the fifth line of the first paragraph add the words “Secretary of the” after the words “file with the” and before the word “commission”; and

(2) the second paragraph is rewritten to read:

“Within 10 working days after dismissal or demotion, the employee may appeal by first filing with the secretary of the commission a written request for a hearing before the Civil Service Commission. Such request for hearing shall contain a written response to each of the enumerated charges which was filed in support of the discharge or demotion. The commission shall conduct a hearing within 60 calendar days after receipt of the request. Hearings shall be
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administrative in nature. 'Working days' for purposes of this subsection shall mean 8:30 a.m. to 5:00 p.m., Monday through Friday except legal holidays."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of May, 1981.

S. B. 335 CHAPTER 343

AN ACT TO AMEND CHAPTER 122A OF THE GENERAL STATUTES TO EXTEND THE ALLOWABLE BOND TERM FOR BONDS ISSUED BY THE NORTH CAROLINA HOUSING FINANCE AGENCY TO FORTY-THREE YEARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122A-8, as the same appears in the 1980 Interim Supplement to the General Statutes, is amended by deleting from the twenty-sixth line of that section the words "40 years" and inserting in lieu thereof the words "43 years".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of May, 1981.

S. B. 336 CHAPTER 344

AN ACT TO AMEND CHAPTER 122A OF THE GENERAL STATUTES TO ENABLE THE NORTH CAROLINA HOUSING FINANCE AGENCY TO PARTICIPATE IN THE MAKING OF MORTGAGE LOANS FOR THE REHABILITATION OF EXISTING HOUSING FOR LOW AND MODERATE INCOME PERSONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122A-3, as the same appears in the 1979 Cumulative Supplement to 1974 Replacement Volume 3B of the General Statutes, is amended by adding a new subsection (17) at the end thereof, to read as follows:

"(17) 'Rehabilitation' means the renovation or improvement of residential housing by the owner of said residential housing."

Sec. 2. Chapter 122A of the General Statutes, as the same appears in the 1979 Cumulative Supplement to 1974 Replacement Volume 3B of the General Statutes is amended by adding G.S. 122A-5.5, to follow presently existing subsection G.S. 122A-5.4, to read as follows:

"§122A-5.5. Rehabilitation Loan Authority.—(a) In order to effectuate the authority of the Agency to participate in commitments to purchase and to purchase mortgage loans for the rehabilitation of existing residential housing the Agency is hereby empowered to adopt, modify or repeal rules and regulations governing the making or participation in the making of mortgage loans and the purchase or participation in commitments for the purchase of mortgage loans for the rehabilitation of existing residential housing.

(b) The rules and regulations of the Agency adopted pursuant to this section shall provide at a minimum that:

(1) Rehabilitation mortgage loans shall be for the purpose of owner-financed improvements to or renovation of residential housing;
(2) Requirements for eligibility for rehabilitation mortgage loans shall be consistent with all applicable federal laws and regulations governing bonds for rehabilitation mortgage loans in order to insure that such bonds are exempt from taxation."

Sec. 3. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 8th day of May, 1981.

S. B. 375  CHAPTER 345

AN ACT TO AMEND CERTAIN PORTIONS OF ARTICLE 17 AND 17A OF CHAPTER 130 OF THE NORTH CAROLINA GENERAL STATUTES RELATING TO THE PREVENTION, DIAGNOSIS AND TREATMENT OF CANCER.

The General Assembly of North Carolina enacts:

Section 1. Articles 17 and 17A of G.S. Chapter 130 are repealed.

Sec. 2. G.S. Chapter 130 is amended by adding a new Article to read as follows:

"ARTICLE 17C.
"Cancer Control Program.

"§ 130-186.15. Administration of program; rules.—The Department of Human Resources shall administer a program for the prevention and treatment of cancer to the extent specified in this Article and the Commission for Health Services is authorized to promulgate rules to carry out such program.

"§ 130-186.16. Financial aid for diagnosis and treatment.—The Department of Human Resources shall furnish to indigent citizens of North Carolina, having or suspected of having cancer and who comply with the rules specified by the Commission for Health Services, financial aid for diagnosis and treatment. The Department of Human Resources may make available to all citizens facilities for diagnosis and treatment of cancer. Such diagnosis and treatment shall be given to patients in any medical facility in this State which meets the minimum requirements for cancer control established by the Commission for Health Services. In order to administer financial aid in the manner which will afford the greatest benefit to the patients, the Commission for Health Services is hereby authorized to promulgate rules specifying the terms and conditions upon which the patients may receive financial aid. The Department of Human Resources may develop procedures for carrying out the purposes of this Article.

"§ 130-186.17. Cancer clinics.—The Department of Human Resources is authorized to establish minimum standards and requirements for the staffing, equipment and operation of State-sponsored cancer clinics in medical facilities and local health departments to the end that the medical facilities and local health departments may adequately staff and equip their facilities to provide for the early diagnosis, prevention, and effective treatment of cancer.

"§ 130-186.18. Incidence reporting of cancer.—Every physician shall report to the Central Cancer Registry of the Department of Human Resources each diagnosis of cancer made in any person for whom the physician is professionally consulted. The reports shall be made within 60 days of diagnosis. Diagnosis and demographic information, as prescribed by the Commission for Health Services
in consultation with the Cancer Committee of the North Carolina Medical Society, shall be included in the report.

"§ 130-186.19. Central Cancer Registry.—A medical facility may submit to the Department of Human Resources clinical, statistical and other records relating to the treatment and cure of cancer. This information shall be received by the Central Cancer Registry maintained by the Department of Human Resources. The Central Cancer Registry shall compile, tabulate and preserve statistical, clinical, and other reports and records relating to the incidence, treatment and cure of cancer received pursuant to this section and G.S. 130-186.18. The Central Cancer Registry shall provide assistance and consultation for public health work.

"§ 130-186.20. Immunity of persons who report Cancer.—Any physician, medical facility or their employees who make a report pursuant to G.S. 130-186.18 or G.S. 130-186.19 to the Central Cancer Registry of the Department of Human Resources shall be immune from any civil or criminal liability that might otherwise be incurred or imposed for so doing.

"§ 130-186.21. Confidentiality of records.—The clinical records or reports of individual patients shall be confidential and shall not be public records open to inspection. The Commission for Health Services shall provide by rule for the use of the records and reports for medical research.

"§ 130-186.22. Cancer Committee of the North Carolina Medical Society.—In implementing this Article, the Department of Human Resources shall consult with the Cancer Committee of the North Carolina Medical Society, which shall consist of at least one physician from each congressional district, to the end that the cancer control program shall most effectively serve the welfare of the people of the State. Any proposed rules or reports affecting the operation of the cancer control program shall be reviewed by said Cancer Committee for comment prior to adoption or presentation.

"§ 130-186.23. Duties of Department of Human Resources.—The Department of Human Resources shall study the entire problem of cancer: its causes (including environmental factors), prevention, detection, diagnosis, and treatment. The Department of Human Resources shall provide or assure the availability of cancer educational resources to the health professions, interested private or public organizations and the public.

"§ 130-186.24. Reports by Secretary.—The Secretary of Human Resources shall make a report to the Governor and the General Assembly specifying the activities of the cancer control program and the budget thereof. Such report shall be made to the Governor annually, and to the General Assembly biennially."

Sec. 3. This act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 8th day of May, 1981.
H. B. 462
CHAPTER 346
AN ACT TO ALLOW GOVERNMENTAL PURCHASES OF FUEL BY INFORMAL BID REGARDLESS OF DOLLAR AMOUNT.

Whereas, conditions in the petroleum market make it difficult for petroleum product suppliers to offer firm bids for future deliveries; and
Whereas, it is often to the advantage of public bodies to make "spot" purchases of petroleum products after receiving informal competition; Now, therefore,
The General Assembly of North Carolina enacts:

Section 1. The first paragraph of G.S. 143-129 is amended by adding the following language at the end:
"Further, the provisions of this section shall not apply to the purchase of gasoline, diesel fuel, alcohol fuel, motor oil or fuel oil. Such purchases shall be subject to G.S. 143-131."

Sec. 2. All laws, public and local, in conflict with this act are repealed to the extent of the conflict.
Sec. 3. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 11th day of May, 1981.

H. B. 515
CHAPTER 347
AN ACT TO ALLOW COUNTIES AND CITIES TO OFFER GROUP HEALTH BENEFITS TO RETIRED EMPLOYEES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-93 is amended by adding the following new subsection:
"(d) A county which is providing health insurance under G.S. 153A-92(d) may provide health insurance for all or any class of former officers and employees of the county who are receiving benefits under subsection (a) of this section. Such health insurance may be paid entirely by the county, partly by the county and former officer or employee, or entirely by the former officer or employee, at the option of the county."

Sec. 2. G.S. 160A-163 is amended by adding the following new subsection:
"(e) A city which is providing health insurance under G.S. 160A-162(b) may provide health insurance for all or any class of former employees of the city who are receiving benefits under subsection (a) of this section or who are 65 years of age or older. Such health insurance may be paid entirely by the city, partly by the city and former employee, or entirely by the former employee, at the option of the city."

Sec. 3. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 11th day of May, 1981.
H. B. 571  

CHAPTER 348  

AN ACT TO MAKE CERTAIN CHANGES IN THE SALARY CONTINUATION PLAN FOR STATE LAW ENFORCEMENT OFFICERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-166.13(13) is amended by deleting the phrase “as either ‘inspectors’ and uniformed weigh station personnel” and by substituting the following: “as either ‘inspectors’ or uniformed weigh station personnel”.

Sec. 2. G.S. 143-166.18 is amended by deleting the phrase “, or other head of the department to which the agency is assigned by statute, or the commanding officer of the State Highway Patrol in the case of the Highway Patrol” and by substituting the following: “or other head of the department to which the agency is assigned by statute”.

Sec. 3. G.S. 143-166.19 is rewritten to read:

“§ 143-166.19. Determination of cause and extent of incapacity; hearing before Industrial Commission; appeal; effect of refusal to perform duties.—Upon the filing of the report, the secretary or other head of the department or, in the case of the General Assembly, the Legislative Services Officer, shall determine the cause of the incapacity and to what extent the claimant may be assigned to other than his normal duties. The finding of the secretary or other head of the department shall determine the right of the claimant to benefits under this Article. Notice of the finding shall be filed with the North Carolina Industrial Commission. Unless the claimant, within 30 days after he receives notice, files with the North Carolina Industrial Commission, upon the form it shall require, a request for a hearing, the finding of the secretary or other department head shall be final. Upon the filing of a request, the North Carolina Industrial Commission shall proceed to hear the matter in accordance with its regularly established procedure for hearing claims filed under the Worker’s Compensation Act, and shall report its findings to the secretary or other head of the department. From the decision of the North Carolina Industrial Commission, an appeal shall lie as in other matters heard and determined by the Commission. Any person who refuses to perform any duties to which he may be properly assigned as a result of the finding of the secretary, other head of the department or of the North Carolina Industrial Commission shall be entitled to no benefits pursuant to this Article as long as the refusal continues.”

Sec. 4. Chapter 143 of the General Statutes is amended by adding a new section to Article 12B to read:

“§ 143-166.20. Subrogation.—The same rights and remedies set forth in G.S. 97-10.2 shall apply in all third party liability cases occurring under this Article, including cases involving the right of the affected State agency to recover the salary paid to an injured officer during his period of disability.”

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of May, 1981.
H. B. 608  CHAPTER 349
AN ACT TO ALLOW THE PEMBROKE STATE UNIVERSITY CAMPUS POLICE TO ASSIST THE ROBESON SHERIFF AND THE PEMBROKE TOWN POLICE.

The General Assembly of North Carolina enacts:

Section 1. In accordance with rules, policies or guidelines adopted by the Board of Trustees of Pembroke State University, the chief of the Pembroke State University Campus Police or his designee may temporarily provide assistance to the Pembroke Town Police or the Robeson County Sheriff in enforcing State and local laws if so requested in writing by the town police chief or his designee or the sheriff or his designee. The assistance may comprise allowing the campus police to work temporarily with officers of the requesting agency (including in an undercover capacity) and lending equipment and supplies. While working with the requesting agency under the authority of this section, an officer has the same jurisdiction, powers, rights, privileges and immunities as the officers of the requesting agency in addition to those he normally possesses. While on duty with the requesting agency, he is subject to the lawful operational commands of his superior officers in the requesting agency, but for personnel and administrative purposes, he remains under the control of his own agency, including for purposes of pay. He is furthermore entitled to worker’s compensation and the same benefits when acting pursuant to this section to the same extent as though he were functioning within the normal scope of his duties.

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 11th day of May, 1981.

H. B. 634  CHAPTER 350
AN ACT TO GIVE THE CITY OF WILMINGTON AUTHORITY TO ABOLISH THE GENERAL EMPLOYEES’ RETIREMENT FUND FOR THE CITY OF WILMINGTON UPON TRANSFER OF EMPLOYEES TO THE NORTH CAROLINA LOCAL GOVERNMENTAL EMPLOYEES’ RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. The City Council of the City of Wilmington may abolish the general employees’ retirement fund set up by Chapter 708 of the 1943 Session Laws of North Carolina, as amended relating to the Retirement System for Employees of the City of Wilmington, upon the following conditions:

(a) that the City of Wilmington transfer the assets, the active employees and the retirees of this fund to the North Carolina Local Governmental Employees’ Retirement System; and

(b) that at least sixty percent (60%) of the active members, defined as those actively contributing to the fund, vote in the affirmative for the transfer.

Sec. 2. All laws and clauses of laws in conflict with this act are repealed.

Sec. 3. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 11th day of May, 1981.
CHAPTER 351

AN ACT TO REWRITE G.S. 113-36 RELATING TO THE PROCEEDS FROM THE SALE OF MATERIALS FROM THE STATE FORESTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-36 is rewritten to read as follows:

"§ 113-36. Applications of proceeds from sale of products.—(a) Application of proceeds generally. Except as provided in subsection (b) of this section, all money received from the sale of wood, timber, minerals, or other products from the State forests shall be paid into the State treasury and to the credit of the Department of Natural Resources and Community Development; and such money shall be expended in carrying out the purposes of this Article and of forestry in general, under the direction of the Secretary, Department of Natural Resources and Community Development.

(b) Tree Cone and Seed Purchase Fund. A percentage of the money obtained from the sale of seedlings and remaining unobligated at the end of a fiscal year, shall be placed in a special, continuing and nonreverting Tree Cone and Seed Purchase Fund under the control and direction of the Secretary, Department of Natural Resources and Community Development. The percentage of the sales placed in the fund shall not exceed ten percent (10%). At the beginning of each fiscal year, the secretary shall select the percentage for the upcoming fiscal year depending upon the anticipated costs of tree cones and seeds which the department must purchase. Money in this fund shall not be allowed to accumulate in excess of the amount needed to purchase a four-year supply of tree cones and seed, and shall be used for no purpose other than the purchase of tree cones and seeds."

Sec. 2. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 11th day of May, 1981.

S. B. 224

AN ACT TO REVERSE AND CONSOLIDATE THE CHARTER OF THE TOWN OF SOUTHERN PINES AND TO REPEAL PRIOR LOCAL ACTS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Southern Pines is hereby revised and consolidated to read:

"THE CHARTER OF THE TOWN OF SOUTHERN PINES.

"ARTICLE I.

"INCORPORATION, CORPORATE POWERS AND BOUNDARIES.

"Sec. 1.1. Incorporation.—The Town of Southern Pines, North Carolina, in the County of Moore, and the inhabitants thereof, shall continue to be a municipal body politic and corporate, under the name and style of the 'Town of Southern Pines', hereinafter at times referred to as the 'Town'.

"Sec. 1.2. Powers.—The Town of Southern Pines shall have and may exercise all of the powers, duties, rights, privileges and immunities, which are now, or hereafter may be, conferred, either expressly or by implication, upon the Town of Southern Pines specifically, or upon municipal corporations generally, by this Charter, by the State Constitution, or by general or local law."
"Sec. 1.3. Corporate Limits.—The corporate limits of the Town of Southern Pines shall be those existing at the time of ratification of this Charter, as the same are set forth on the official map of the Town, and as the same may be altered from time to time in accordance with law. An official map of the Town, showing the current Town boundaries, shall be maintained permanently in the office of the Town Clerk, and shall be available for public inspection. Immediately upon alteration of the corporate limits made pursuant to law, the appropriate changes to the official map of the Town shall be made.

"ARTICLE II.

"MAYOR AND COUNCIL.

"Sec. 2.1. Governing Body.—The Town Council elected and constituted as herein set forth, shall be the governing body of the Town. On behalf of the Town, and in conformity with applicable laws, the Town Council may provide for the exercise of all municipal powers, and shall be charged with the general government of the Town.

"Sec. 2.2. Town Council; Composition; Terms of Office.—The Town Council shall be composed of five members, each of whom shall be elected for terms of two years in the manner provided by Article III of this Charter, provided they shall serve until their successors are elected and qualified.

"Sec. 2.3. Selection of the Mayor and other Officers; Meetings.—The Mayor shall be elected by the Council from among its members and shall hold office during the term for which he or she has been elected to the Council, and until a successor is elected and qualified. The Mayor shall be the official head of the Town, preside at meetings of the Town Council, and shall exercise such powers and perform such duties as presently are or hereafter may be conferred upon the Mayor by the General Statutes of North Carolina, by this Charter, and by the ordinances of the Town.

"Sec. 2.4. Mayor Pro Tempore.—In accordance with applicable State laws, the Town Council shall appoint one of its members to act as Mayor pro tempore to perform the duties of the Mayor in the Mayor’s absence or disability. The Mayor pro tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Council.

"Sec. 2.5. Treasurer.—The Mayor and Council may elect from their membership a treasurer, and in addition to the salary allowed as a member of the Council, such treasurer may be paid for services as treasurer an additional amount to be determined by the Council.

"Sec. 2.6. Meetings of the Board.—In accordance with the General Statutes, the Town Council shall establish a suitable time and place for its regular meetings. Special meetings may be held according to the applicable provisions of the General Statutes.

"Sec. 2.7. Ordinances and Resolutions.—The adoption, amendment, repeal, pleading, or proving of Town ordinances and resolutions shall be in accordance with the applicable provisions of the general laws of North Carolina not inconsistent with this Charter. The enacting clause of all Town ordinances shall be: “Be it ordained and established by the Town Council of the Town of Southern Pines”.

"Sec. 2.8. Voting Requirements; Quorum.—Official action of the Town Council shall, unless otherwise provided by law, be by majority vote, provided that a quorum, consisting of a majority of the actual membership of the Council, is present. Vacant seats are to be subtracted from the normal Council
membership to determine the actual membership. All final votes of the Town Council involving an ordinance, resolution or the expenditure of fifty dollars ($50.00) or more shall be by ayes and noes and shall be entered on the records. Three affirmative votes at least shall be necessary for the passage of any order, ordinance, or resolution.

"Sec. 2.9. Qualifications for Office; Vacancies; Compensation.—The compensation of Council members, the filling of vacancies on the Council and the qualifications of Council members shall be in accordance with applicable provisions of the General Statutes.

"ARTICLE III.
"ELECTIONS.

"Sec. 3.1. Regular Municipal Elections; Conduct and Method of Election.—Regular municipal elections shall be held in the Town every two years in odd-numbered years and shall be conducted in accordance with Chapter 163 of the General Statutes. Members of the Town Council shall be elected according to the nonpartisan primary and election method of elections, and the results determined in accordance with G.S. 163-294.

"Sec. 3.2. Election of the Mayor and Town Council.—At the regular municipal elections in 1981 and biennially thereafter, there shall be elected five members of the Town Council to fill the seats of those officers whose terms are then expiring.

"ARTICLE IV.
"ORGANIZATION AND ADMINISTRATION.

"Chapter 1.

"City Manager.

"Sec. 4.1. Council-Manager Form of Government.—The Town shall operate under the council-manager form of government in accordance with Part 2 of Article 7, Chapter 160A of the General Statutes.

"Sec. 4.2. Appointment; Qualifications; Compensation.—The Town Council shall appoint a Town Manager, who shall serve at the pleasure of the Council. The manager shall be chosen on the basis of executive and administrative qualifications, with special reference to actual experience in or knowledge of accepted practice with respect to the duties of a Town Manager. At the time of appointment, the manager need not be a resident of the Town or State, but during tenure of office shall reside within the Town. The manager shall receive such salary as the Council may establish.

"Sec. 4.3. Powers and Duties.—The Town Manager shall be the administrative head of the Town government, and shall be responsible to the Town Council for the proper administration of all affairs of the Town. Except as otherwise provided by this Charter, the Town Manager shall have all the powers and duties assigned or delegated to a Town Manager by State law. The Town Manager shall also perform such other duties as are prescribed by the Council.

"Chapter 2.

"Town Attorney.

"Sec. 4.11. Appointment; Qualifications; Compensation.—(a) The Town Council shall appoint a town attorney to be its legal advisor, who shall serve at the pleasure of the Council. The town attorney shall be an attorney-at-law
licensed to practice in this State. The town attorney shall receive such compensation as the Council may establish.

(b) The Town Council may also employ such other attorneys as it deems advisable in order to provide proper legal advice and assistance to the Town.

"Sec. 4.12. Duties.—The town attorney shall be the principal legal advisor to the Town, and shall perform whatever duties are prescribed by the Town Council.

"ARTICLE V.

"ASSESSMENTS.

"Sec. 5.1. Petition Unnecessary.—In addition to authority as now or may hereafter be granted to the Town for making street or sidewalk improvements, the Town Council is hereby authorized to order such improvements and to assess the total cost thereof against abutting properties without the necessity of a petition of property owners.

"Sec. 5.2 Sidewalk Repairs.—The Council is further authorized to order or to make sidewalk repairs and driveway repairs across sidewalks according to standards and specifications of the City, and to assess the total cost thereof against abutting properties without the necessity of a petition of property owners.

"Sec. 5.3 Sidewalk On One Side of Street.—If a sidewalk is constructed on only one side of the street, the cost thereof may be assessed against the property abutting on both sides of the street, unless there already exists a sidewalk on the other side of the street, the total cost of which was assessed against the abutting property.

"Sec. 5.4. Assessment Procedure and Effect.—In ordering street or sidewalk improvements or sidewalk repairs and assessing the cost thereof, the Council shall follow the procedures provided by the General Statutes for street and sidewalk improvements, except those provisions relating to the petition of property owners, the sufficiency thereof, and limitation of percentage of cost to be assessed. The effect of levying assessments pursuant to this act shall for all purposes be the same as if they were levied under authority of the General Statutes.

"Sec. 5.5. Improvements Outside Corporate Limits.—The Town Council shall also have the power and authority, in the extension, installation, construction, operation and maintenance of its water and sewerage facilities outside of its corporate boundaries, to create water and/or sewer benefit assessment districts and to specifically assess the cost of such water or sewer installations or construction to the property in such benefit assessment districts on the basis of the front foot rule, the benefits derived or to be derived by the property in such assessment districts, or some other equitable method promulgated and established by the governing body in the exercise of its sound legislative discretion.

"ARTICLE VI.

"LIEN FOR RESIDENTIAL IMPROVEMENTS.

"Sec. 6.1. Lien Authorized.—The Town Council is authorized and empowered to make improvements to residential property, including connection to water and sewer lines, and to affix a lien to the benefitted property for the cost of making such improvements and providing such services, and upon receipt of a petition from the property owner or owners, and determination that the
proposed work is in compliance with federal, State and local rules and regulations pertaining to Community Development Block Grants.

"Sec. 6.2. Petition.—The authority granted by this Article shall be exercised only upon petition by the owner or owners of such benefitting property. Such petition shall be upon a form approved by the Town Council and shall contain:

(1) A description of the improvements and/or service or services requested, and

(2) A description of the property to be improved or served, and the anticipated cost of furnishing such services, and

(3) An acknowledgement by the owner or owners that they understand that the cost of such improvements will become a lien against their property, and

(4) Such other information as may be required by the Town Council.

"Sec. 6.3. Approval.—The Town Council may approve or deny such petition submitted. If any such petition shall be approved by the Town Council, the town clerk shall mark upon the face of such petition such words as shall indicate such approval by the Town Council and the date and time of the approval.

"Sec. 6.4. Foreclosure.—From and after approval of any petition submitted pursuant to this Article, a lien in favor of the Town shall exist upon the property described in such petition for the amount stated in such petition as the anticipated cost of furnishing such improvements and services. Such liens shall be inferior to all prior and subsequent federal, State, county and municipal tax liens of record, but superior to all others. This lien may be collected by foreclosure in the same manner as provided by law for the foreclosure of liens for special assessments. Any foreclosure proceeding instituted pursuant to this section shall be deemed a proceeding in rem and no mistake or omission as to the name of any owner or person interested in any lot or parcel of land affected thereby shall be regarded as a substantial mistake or omission. No change of ownership shall affect any lien created pursuant to this Article.

"Sec. 6.5. Amount.—The amount of the lien affixed pursuant to the act for the purpose of improving residential dwellings shall not exceed the valuation for ad valorem tax purposes of the land and improvements which are benefitted.

"Sec. 6.6. Payment.—The owner or owners submitting such a petition to the Town Council shall also have the option of removing the lien from their property by either a lump sum payment or completion of an installment payment plan of the cost of the improvements and services.

"Sec. 6.7. Amendment.—If the Town Council shall determine that the actual cost of furnishing the improvements and services provided for in any approved petition shall have exceeded the amount originally stated in such petition as the anticipated cost of providing such improvements or services, the Town Council may, by resolution, amend the approved petition to set forth the correct costs. The Town Council's determination of such actual costs shall be deemed conclusive. Upon amendment as provided by this subsection, the petition shall be deemed effective as if originally submitted with the amended costs set forth therein. A copy of any resolution enacted pursuant to this subsection shall be mailed or personally delivered to the owner or owners of such property at their last known address.

"Sec. 6.8. Records.—Any petition approved by the Town Council and any amendment thereof shall be filed in the office of the town clerk. The town clerk
shall maintain a record of such approved petitions and amendments thereof and such records shall be available to public view during regular business hours.

"Sec. 6.9. Correction.—If the actual cost of providing the services requested in any approved petition shall be less than the costs set forth in such petition as anticipated costs, the Town Council may, by resolution, amend the approved petition to set forth the correct costs under the same procedures as outlined in Section 6.7 above, provided, however, any anticipated costs set forth in the approved petition which shall have been determined under any schedule of charges approved by the Town Council shall, for the purpose of this section, be deemed the actual costs of providing such service.

"ARTICLE VII.

"SPECIAL PROVISIONS.

"Sec. 7.1. Police jurisdiction.—Any police officer employed by the Town shall have the power, when in pursuit of a person charged with the commission of any crime or who has committed any crime in the presence of any such officer within the corporate limits of said Town of Southern Pines, to continuously follow and pursue said person to any part of Moore County, and may arrest him and carry him before the proper tribunal.

"Sec. 7.2. Sale of property.—The Town Council may publicly or privately sell, lease, rent, exchange or otherwise convey, or cause to be publicly or privately sold, leased, rented, exchanged or otherwise conveyed, any property, real or personal, or any interest in such property belonging to the Town.

"Sec. 7.3. Condemnation Powers and Procedure.

(a) In addition to other provisions of law and as alternative powers and methods of procedure for the exercise of the power of eminent domain, the Town of Southern Pines is hereby authorized to use the procedure and authority prescribed in Article 9 of Chapter 136 of the General Statutes of North Carolina, as now or hereafter amended, in the exercise of the power of eminent domain for all of the purposes set out below; provided, that whenever therein the words ‘Department of Transportation’ appear, they shall be deemed to include the ‘Town of Southern Pines’, and whenever therein the words ‘Secretary of the Department of Transportation’ appear, they shall be deemed to include the ‘Town Manager’. The purposes for which the authority contained in this section may be exercised are: opening, widening, extending, or improving streets, alleys and sidewalks; establishing, extending, enlarging or improving water supply and distribution systems and sewage collection and disposal systems; acquisition of property for community development purposes which meets the criteria contained in G.S. 160A-457(1) a, b, c or d; and off-street parking facilities and systems.

(b) The Town shall possess the power of eminent domain for the purpose of acquiring the fee or any lesser interest in properties already devoted to the public use and owned by a public service corporation, including public utilities as defined in Chapter 62 of the General Statutes and electric and telephone membership corporations, only if such acquisition will not prevent or unreasonably impair the continued devotion to the public use of such properties and their operation by such public service corporation.

"Sec. 7.4. Streets in Extraterritorial Jurisdiction.

The Town Council shall have the power and authority to name streets and change street names in the Town’s extraterritorial planning jurisdiction to the same extent as within the Town’s corporate limits.
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"ARTICLE VIII.

"SPECIAL ASSESSMENTS FOR PARKING FACILITIES.

"Sec. 8.1. The Town of Southern Pines is hereby authorized to provide for the levy of special assessments against benefitted property within its corporate limits for the total cost or a portion of the cost of the purchase, construction, reconstruction, or repair of parking facilities in accordance with the provisions of this act.

"Sec. 8.2. For purposes of this act, the term 'parking facilities' shall mean any area or place operated or to be operated by the Town for the parking or storing of motor and other vehicles, open to public use, and shall without limiting the foregoing, include all real and personal property, driveways, roads, approaches, structures, garages, meters, mechanical equipment, and all appurtenances and facilities either on, above or under the ground which are used or are usable in connection with such parking or storing of such vehicles.

"Sec. 8.3. The procedure for levying special assessments for parking facilities shall be the procedure contained in Article 10 of Chapter 160A of the General Statutes, entitled 'Special Assessments', except that the required number of signatures on the petition for the improvements shall be at least a majority in number of the owners of property in the benefitted area, who must represent at least a majority of the lineal feet of frontage, square feet of floor space or other basis on which the assessment is to be made; and except that such assessments may be paid in annual installments over a period not exceeding 20 years. The basis on which the assessment is made may be by the number of square feet of floor space fronting either on the improvements or on streets in the benefitted area, or by any method set out in G.S. 160A-218, or by any other fair basis as determined by the Town Council.

"Sec. 8.4. The effect of the act of levying assessments under the authority of this act shall be for all purposes the same as if the assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes."

Sec. 2. The purpose of this act is to revise the Charter of the Town of Southern Pines and to consolidate herein certain acts concerning the property, affairs, and government of the Town. It is intended to continue without interruption those provisions of prior acts which are consolidated into this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 3. This act shall not be deemed to repeal, modify, or in any manner affect any of the following acts, portions of acts, or amendments thereto, whether or not such acts, portions of acts, or amendments are expressly set forth herein:

(1) Any acts concerning the property, affairs, or government of public schools in the Town of Southern Pines.

(2) Any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

(3) Any acts concerning the sale of alcoholic beverages or elections relating thereto.

Sec. 4. (a) The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act are hereby repealed:

Private Laws of 1887, Chapter 159
Private Laws of 1891, Chapter 274

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Private Laws of 1895, Chapter 42
Private Laws of 1897, Chapter 194
Public Laws of 1899, Chapter 529
Private Laws of 1899, Chapter 167
Private Laws of 1901, Chapter 218
Private Laws of 1903, Chapter 290
Private Laws of 1905, Chapter 168
Private Laws of 1905, Chapter 214
Private Laws of 1905, Chapter 268
Private Laws of 1909, Chapter 199
Private Laws of 1909, Chapter 331
Private Laws of 1915, Chapter 102
Private Laws of 1921, Extra Session, Chapter 92
Private Laws of 1923, Chapter 97
Private Laws of 1929, Chapter 120
Private Laws of 1931, Chapter 27
Private Laws of 1931, Chapter 39
Public-Local Laws of 1931, Chapter 132
Public-Local Laws of 1931, Chapter 199
Private Laws of 1935, Chapter 245
Session Laws of 1945, Chapter 52
Session Laws of 1945, Chapter 71
Session Laws of 1947, Chapter 513
Session Laws of 1949, Chapter 38
Session Laws of 1949, Chapter 284
Session Laws of 1951, Chapter 343
Session Laws of 1957, Chapter 442
Session Laws of 1959, Chapter 74
Session Laws of 1965, Chapter 838
Session Laws of 1975, Chapter 367
Session Laws of 1975, Chapter 498
Session Laws of 1977, Chapter 418

(b) Section 1 of Chapter 338, Public Laws of 1935, is amended by deleting the words “Southern Pines and”, both places they appear.

Sec. 5. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

(1) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act.

(2) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken pursuant to or within the scope of any provisions of law repealed by this act.

Sec. 6. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(1) The repeal herein of any act repealing such law, or

(2) Any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

Sec. 7. (a) All existing ordinances and resolutions of the Town of Southern Pines and all existing rules or regulations of departments or agencies
of the Town of Southern Pines not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified or amended.

(b) No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or against the Town of Southern Pines or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 8. If any of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application and to this end the provisions of this act are declared to be severable.

Sec. 9. Whenever a reference is made in this act to a particular provision of the General Statutes, and such provision is later amended, repealed, or superseded, the reference shall be deemed amended to refer to the amended General Statute, or to the General Statute which most clearly corresponds to the statutory provision which is repealed or superseded.

Sec. 11. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 11th day of May, 1981.

S. B. 302  
CHAPTER 353
AN ACT TO AMEND EXEMPTION PROCEDURES UNDER THE DRINKING WATER ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-166.49(b)(1)b. is hereby amended by inserting after the word “requirement” the following:
“or, for a system that was not in operation by that date, only if no reasonable alternative source of drinking water is available to such new system.”

Sec. 2. G.S. 130-166.49(c) is hereby amended by deleting “1981” and substituting “1984” in lieu thereof.

Sec. 3. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 11th day of May, 1981.

S. B. 331  
CHAPTER 354
AN ACT TO PROVIDE THAT THE CHAIRMAN OF THE EMPLOYMENT SECURITY COMMISSION SERVE AT THE PLEASURE OF THE GOVERNOR.

The General Assembly of North Carolina enacts:

Section 1. G.S. 96-3(a), as the same appears in the 1979 Cumulative Supplement to Volume 2C of the General Statutes, is hereby amended by deleting the words “be appointed for a term of four years from and after his appointment” immediately following the word “shall” in line 12, substituting in lieu thereof the words “serve at the pleasure of the Governor”.

Sec. 2. This act shall become effective July 1, 1981.
In the General Assembly read three times and ratified, this the 11th day of May, 1981.
S. B. 365  CHAPTER 355
AN ACT TO REQUIRE INFORMATION OBTAINED FROM AN INSURER INSURING TEACHERS AND STATE EMPLOYEES TO BE HELD CONFIDENTIAL AND EXEMPT FROM THE PUBLIC RECORDS ACT.

The General Assembly of North Carolina enacts:

Section 1. Article 3 of Chapter 135 of the General Statutes is hereby amended by adding a new section thereto, to be numbered G.S. 135-37, and to read as follows:

"§135-37. Information received from insurer held confidential.—Any information received from an insurer contracted with by the Retirement System under the provisions of this Article and concerning an individual insured shall be held confidential and shall be exempt from the provisions of Chapter 132 of the General Statutes or any other provision requiring information and records held by State agencies to be made public or accessible to the public. This section shall apply to all information concerning individuals, including the fact of coverage or noncoverage, whether or not a claim has been filed, medical information, whether or not a claim has been paid, and any other information or materials concerning an individual claim, claimant, or insured, including spouses, dependents and persons believed to be claimants or insureds, or spouses and dependents of claimants or insureds. Provided, however, such information may be released to the State Auditor or to the Attorney General in furtherance of his statutory duties and responsibilities and shall retain its character as confidential information exempt from Chapter 132 of the General Statutes and other provisions of a similar nature when so acquired by the State Auditor or the Attorney General."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of May, 1981.

S. B. 390  CHAPTER 356
AN ACT AUTHORIZING AND EMPOWERING THE CITY OF ALBEMARLE TO LEVY ASSESSMENTS FOR PUBLIC IMPROVEMENTS AND VALIDATING ASSESSMENTS FOR IMPROVEMENTS HERETOFORE MADE.

The General Assembly of North Carolina enacts:

Section 1. The City of Albemarle is hereby authorized and empowered to levy assessments for improvements heretofore made or as hereafter may be made pursuant to Article 10A of Chapter 160A of the General Statutes of North Carolina in all cases where the assessment resolution was adopted prior to March 1, 1981, notwithstanding that the public hearing for the project may have been held less than three weeks from the date of the adoption of the preliminary resolution of intent to undertake the project.

Sec. 2. All assessments for improvements made by the City of Albemarle levied pursuant to Article 10A of Chapter 160A of the General Statutes of North Carolina on or prior to March 1, 1981, are hereby in all respects validated.

Sec. 3. The provisions of this act shall not apply to or affect pending litigation.
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Sec. 4. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 11th day of May, 1981.

S. B. 422  CHAPTER 357
AN ACT TO MAKE TECHNICAL AMENDMENTS TO THE LIFE AND ACCIDENT AND HEALTH INSURANCE GUARANTY ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-155.71(a) is amended in the first sentence by deleting the word "members" and substituting the words "member insurers".

Sec. 2. G.S. 58-155.73(c)(1) is amended by deleting the first sentence and substituting:

"The amount of any Class A assessment shall be determined by the board of directors and may be made on a non-pro rata basis. This assessment shall be credited against future insolvency assessments and shall not exceed fifty dollars ($50.00) per company in any one calendar year."

Sec. 3. G.S. 58-155.73(c)(2) is amended by deleting the words "Class A and".

Sec. 4. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 11th day of May, 1981.

S. B. 419  CHAPTER 358
AN ACT TO REPEAL ARTICLE 5 OF GENERAL STATUTES CHAPTER 39 WHICH REQUIRES PERSONS WISHING TO SELL CERTAIN TYPES OF BUILDING lots TO FIRST OBTAIN A PERMIT TO DO SO FROM THE CLERK OF SUPERIOR COURT.

The General Assembly of North Carolina enacts:

Section 1. Article 5 of General Statutes Chapter 39, which consists of G.S. 39-28 through G.S. 39-32 inclusive, is repealed.

Sec. 2. This act shall become effective July 1, 1982.
In the General Assembly read three times and ratified, this the 12th day of May, 1981.

H. B. 165  CHAPTER 359
AN ACT CONCERNING DEPARTMENT OF SOCIAL SERVICES INVESTIGATIONS OF ABUSE AND NEGLECT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-542 is amended by adding the following paragraph at the end of that section to read:

"The provisions of this Article shall also apply to day-care facilities and day-care plans as defined in G.S. 110-86."

Sec. 2. G.S. 7A-517(5) is rewritten to read as follows:

"(5) Caretaker. Any person other than a parent who is in care of a juvenile, including any blood relative, stepparent, foster parent, or house parent, cottage parent or other person supervising a juvenile in a child-care facility."

Sec. 3. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 12th day of May, 1981.

H. B. 218  CHAPTER 360
AN ACT TO REGULATE THE PRACTICE OF NURSING.

The General Assembly of North Carolina enacts:

Section 1. Article 9 of Chapter 90 of the General Statutes is hereby rewritten as follows:

"ARTICLE 9.
"Nursing Practice Act.

"§90-158. Legislative findings.—The General Assembly of North Carolina finds that mandatory licensure of all who engage in the practice of nursing is necessary to ensure minimum standards of competency and to provide the public safe nursing care.

"§90-159. Definitions.—As used in this Article, unless the context requires otherwise:

(a) 'Board' means the North Carolina Board of Nursing.
(b) 'Health care provider' means any licensed health care professional and any agent or employee of any health care institution, health care insurer, health care professional school, or a member of any allied health profession. For purposes of this Article, a person enrolled in a program to prepare him to be a licensed health care professional or an allied health professional shall be deemed a health care provider.
(c) 'License' means a permit issued by the board to practice nursing as a registered nurse or as a licensed practical nurse, including a renewal thereof.
(d) 'Nursing' is a dynamic discipline which includes the caring, counseling, teaching, referring and implementing of prescribed treatment in the prevention and management of illness, injury, disability or the achievement of a dignified death. It is ministering to, assisting, and sustained, vigilant, and continuous care of those acutely or chronically ill; supervising patients during convalescence and rehabilitation; the supportive and restorative care given to maintain the optimum health level of individuals and communities; the supervision, teaching, and evaluation of those who perform or are preparing to perform these functions; and the administration of nursing programs and nursing services.
(e) 'Nursing program' means any educational program in North Carolina offering to prepare persons to meet the educational requirements for licensure under this Article.
(f) 'Person' means an individual, corporation, partnership, association, unit of government, or other legal entity.
(g) The 'practice of nursing by a registered nurse' consists of the following nine components:
(1) assessing the patient's physical and mental health; including the patient's reaction to illnesses and treatment regimens;
(2) recording and reporting the results of the nursing assessment;
(3) planning, initiating, delivering, and evaluating appropriate nursing acts;
(4) teaching, delegating to or supervising other personnel in implementing the treatment regimen;
(5) collaborating with other health care providers in determining the appropriate health care for a patient but, subject to the provisions of G.S. 90-18.2, not prescribing a medical treatment regimen or making a medical diagnosis, except under supervision of a licensed physician;

(6) implementing the treatment and pharmaceutical regimen prescribed by any person authorized by State law to prescribe such a regimen;

(7) providing teaching and counseling about the patient's health care;

(8) reporting and recording the plan for care, nursing care given, and the patient's response to that care; and

(9) supervising, teaching, and evaluating those who perform or are preparing to perform nursing functions and administering nursing programs and nursing services.

(h) The 'practice of nursing by a licensed practical nurse' consists of the following five components:

(1) participating in assessing the patient’s physical and mental health including the patient’s reaction to illnesses and treatment regimens;

(2) recording and reporting the results of the nursing assessment;

(3) participating in implementing the health care plan developed by the registered nurse and/or prescribed by any person authorized by State law to prescribe such a plan, by performing tasks delegated by and performed under the supervision or under orders or directions of a registered nurse, physician licensed to practice medicine, dentist, or other person authorized by State law to provide such supervision;

(4) reinforcing the teaching and counseling of a registered nurse, physician licensed to practice medicine in North Carolina, or dentist; and

(5) reporting and recording the nursing care rendered and the patient's response to that care.

"§ 90-160. Board of Nursing; composition; selection; vacancies; qualifications; term of office; compensation; immunity.—(a) The board shall consist of 15 members. Nine members shall be registered nurses. Four members shall be licensed practical nurses. Two members shall be representatives of the public.

(b) Selection. The North Carolina Board of Nursing shall conduct an election each year to fill vacancies of nurse members of the board scheduled to occur during the next year. Nominations of candidates for election of registered nurse members shall be made by written petition signed by not less than 10 registered nurses eligible to vote in the election. Nominations of candidates for election of licensed practical nurse members shall be made by written petition signed by not less than 10 licensed practical nurses eligible to vote in the election. Every licensed registered nurse shall be eligible to vote in the election of registered nurse board members. Every licensed practical nurse shall be eligible to vote in the election of licensed practical nurse board members. The list of nominations shall be filed with the board after January 1 of the year in which the election is to be held and no later than midnight of the first day of April of such year. Before preparing ballots, the board shall notify each person who has been duly nominated of his nomination and request permission to enter his name on the ballot. A member of the board who is nominated to succeed himself and who does not withdraw his name from the ballot is disqualified to participate in conducting the election. Elected members shall begin their term of office on January 1 of the year following their election.
Nominations of persons to serve as public members of the board may be made to the Governor by any citizen or group within the State. The Governor shall appoint the two public members to the board.

Board members shall be commissioned by the Governor upon their election or appointment.

(c) Vacancies. The Governor shall fill all unexpired terms on the board within 30 days after the term is vacated. For vacancies of registered nurse or licensed practical nurse members, the Governor shall appoint the person who received the next highest number of votes to those elected members at the most recent election for board members. The Governor shall select the public member to fill any vacancy of a public member. Appointees shall serve the remainder of the unexpired term and until their successors have been duly elected or appointed and qualified.

(d) Qualifications. Three of the registered nurse members shall hold positions with primary responsibility in nursing education and shall hold baccalaureate or advanced degrees. Six shall hold positions with primary responsibility in providing nursing care to patients. Of the six registered nurse members with primary responsibility in providing nursing care to patients, two shall be employed by a hospital and at least one shall be a hospital nursing service director; one shall be employed by a physician licensed to practice medicine in North Carolina and engaged in the private practice of medicine; one shall be employed by a skilled or intermediate care facility; one shall be a registered nurse, approved to perform medical acts; and one shall be a community health nurse. If no nurse is nominated in one of the categories, the position shall be an at-large registered nursing position. All registered nurse members shall meet the following criteria:

1. hold a current license to practice as a registered nurse in North Carolina;
2. have at least five years' experience in nursing practice, nursing administration, and/or nursing education; and
3. have been engaged in nursing practice, nursing administration, or nursing education for at least three years immediately preceding election.

Licensed practical nurse members shall meet the following criteria:

1. hold a current license to practice as a licensed practical nurse in North Carolina;
2. be a graduate of a board-approved program for the preparation of practical nurses;
3. have at least five years' experience as a licensed practical nurse; and
4. have been engaged in practical nursing for at least three years immediately preceding election.

A public member shall not be a health care provider nor the spouse of a health care provider. Public members shall reasonably represent the population of the State.

(e) Term. The term of office for board members shall be three years. No member shall serve more than two consecutive three-year terms after July 1, 1981.

(f) Removal. The board may remove any of its members for neglect of duty, incompetence, or unprofessional conduct. A member subject to disciplinary
proceedings shall be disqualified from board business until the charges are resolved.

(g) Reimbursement. Board members are entitled to receive compensation and reimbursement as authorized by G.S. 93B-5.

§ 90-160.1. Officers.—The officers of the board shall be a chairman, who shall be a registered nurse, a vice-chairman, and such other officers as the board may deem necessary. All officers shall be elected annually by the board for terms of one year and shall serve until their successors have been elected and qualified.

§ 90-160.2. Duties, powers, and meetings.—(a) Meetings. The board shall hold at least two meetings each year to transact its business. The board shall adopt rules with respect to calling, holding, and conducting regular and special meetings and attendance at meetings. The majority of the board members constitutes a quorum.

(b) Duties, powers. The board is empowered to:

1. administer this Article;
2. issue its interpretations of this Article;
3. adopt, amend or repeal rules and regulations as may be necessary to carry out the provisions of this Article;
4. establish qualifications of, employ, and set the compensation of an executive officer who shall be a registered nurse and who shall not be a member of the board;
5. employ and fix the compensation of other personnel that the board determines are necessary to carry into effect this Article and incur other expenses necessary to effectuate this Article;
6. examine, license, and renew the licenses of duly qualified applicants for licensure;
7. cause the prosecution of all persons violating this Article;
8. prescribe standards to be met by the students, and to pertain to faculty, curricula, facilities, resources, and administration for any nursing program as provided in G.S. 90-164;
9. survey all nursing programs at least every five years or more often as deemed necessary by the board or program director;
10. grant or deny approval for nursing programs as provided in G.S. 90-164.1;
11. upon request, grant or deny approval of continuing education programs for nurses as provided in G.S. 90-165;
12. keep a record of all proceedings and make available to the Governor and licensees an annual summary of all actions taken;
13. appoint, as necessary, advisory committees which may include persons other than board members to deal with any issue under study;
14. appoint and maintain a subcommittee of the board to work jointly with the subcommittee of the Board of Medical Examiners to develop rules and regulations to govern the performance of medical acts by registered nurses. The rules developed by this subcommittee shall govern the performance of medical acts by registered nurses and shall become effective when they have been adopted by both boards. The boards shall act upon any application by a registered nurse to perform medical acts within 60 days of receipt of the completed application. The
Board of Medical Examiners shall have the responsibility and authority to secure compliance with these regulations;
(15) recommend and collect such fees for licensure, license renewal, examinations and reexaminations as it deems necessary for fulfilling the purposes of this Article; and
(16) adopt a seal containing the name of the board for use on all certificates, licenses, and official reports issued by it.

"§90-160.3. Executive director.—The executive director shall perform the duties prescribed by the board, serve as treasurer to the board, and furnish a surety bond as provided in G.S. 128-8. The bond shall be made payable to the board.

"§90-160.4. Custody and use of funds.—The executive director shall deposit in financial institutions designated by the board as official depositories all fees payable to the board. The funds shall be deposited in the name of the board and shall be used to pay all expenses incurred by the board in carrying out the purposes of this Article. Such funds shall be annually audited by the State Auditor.

"§90-160.5. The board may accept contributions, etc.—The board may accept grants, contributions, devices, bequests, and gifts which shall be kept in a separate fund and shall be used by it to enhance the practice of nursing.

"§90-160.6. Expenses payable from fees collected.—(a) Any expenses incurred or allowed for the purpose of carrying out this Article may be paid by the board out of the fees received by the board and authorized by this Article.
(b) The schedule of fees shall not exceed the following rates:
Application for examination leading to certificate and license as registered nurse $30.00
Application for certificate and license as registered nurse by endorsement $30.00
Application for each reexamination leading to certificate and license as registered nurse $30.00
Renewal of license to practice as registered nurse (2-year period) $15.00
Reinstatement of lapsed license to practice as a registered nurse and renewal fee $30.00
Application for examination leading to certificate and license as licensed practical nurse by examination $30.00
Application for certificate and license as licensed practical nurse by endorsement $30.00
Application for each reexamination leading to certificate and license as licensed practical nurse $30.00
Renewal of license to practice as a licensed practical nurse (2-year period) $15.00
Reinstatement of lapsed license to practice as a licensed practical nurse and renewal fee $30.00
Reasonable charge for duplication services and materials.
(c) No refund of fees will be made.

"§90-161. Nurses registered under previous law.—On June 30, 1981, any nurse who holds a license to practice nursing as a registered nurse or licensed practical nurse, issued by a competent authority pursuant to laws providing for the licensure of nurses in North Carolina, shall be deemed to be licensed under
the provisions of this Article, but such person shall otherwise comply with the provisions of this Article including those provisions governing licensure renewal.

"§90-161.1. Qualifications of applicants for examination.—In order to be eligible for licensure by examination, the applicant shall make a written application to the board on forms furnished by the board and shall submit to the board an application fee and written evidence, verified by oath, sufficient to satisfy the board that the applicant has graduated from a course of study approved by the board and is mentally and physically competent to practice nursing.

"§90-161.2. Licensure by examination.—At least twice each year the board shall give an examination at the time and place it determines, to applicants for licensure to practice as a registered nurse or licensed practical nurse. The board shall give advance notice to applicants and to persons conducting approved nursing programs of the time and place of each examination. The board shall adopt regulations, not inconsistent with this Article, governing qualifications of applicants, the conduct of applicants during the examination, and the conduct of the examination. The applicants shall be required to pass a written examination approved and administered by the board. When the board determines that an applicant has passed the required examination, submitted the required fee, and has demonstrated to the board's satisfaction that he or she is mentally and physically competent to practice nursing, the board shall issue a license to the applicant.

"§90-161.3. Reexamination.—Any applicant who fails to pass the first licensure examination may take subsequent examinations in accordance with the rules and regulations of the board, provided that any person who has graduated from a nursing program after July 1, 1981, must pass the examination within three years of graduation. After this three-year period, the applicant must reenter and successfully complete a board-approved nursing program before being allowed to take subsequent examinations.

"§90-161.4. Qualifications for license as a registered nurse or a licensed practical nurse without examination.—The board may, without examination, issue a license to an applicant who is duly licensed as a registered nurse or licensed practical nurse under the laws of another state, territory of the United States, the District of Columbia, or foreign country when that jurisdiction's requirements for licensure as a registered nurse or a licensed practical nurse, as the case may be, are substantially equivalent to or exceed those of the State of North Carolina at the time the applicant was initially licensed, and when, in the board's opinion, the applicant is competent to practice nursing in this State. The board may require such applicant to prove competence and qualifications to practice as a registered nurse or licensed practical nurse in North Carolina.

"§90-161.5. Temporary license.—The board shall issue a nonrenewable temporary license to persons applying for licensure under G.S. 90-161.2 for a period not to exceed the lesser of six months or the date of applicant's receipt of the results of the licensure examination. The board shall revoke the temporary license of any person who has failed the examination for licensure as provided by this act. The board shall issue a nonrenewable temporary license to persons applying for licensure under G.S. 90-161.4 for a period not to exceed the lesser of six months or until the board determines whether the applicant is qualified to practice nursing in North Carolina. Temporary licensees may perform patient-
care services within limits defined by the board. In defining these limits, the board shall consider the ability of the temporary licensee to safely and properly carry out patient-care services. Temporary licensees shall be held to the standard of care of a fully licensed nurse.

"§ 90-161.6. Licensure renewal.—Every license issued under this Article shall be renewed every two years. On or before the date the current license expires, every person who desires to continue to practice nursing shall apply for licensure renewal to the board on forms furnished by the board and shall also file the required fee. The board shall provide space on the renewal form for the licensee to specify the amount of continuing education received during the renewal period. Failure to renew the license within 30 days after the expiration date shall result in automatic forfeiture of the right to practice nursing in North Carolina.

"§ 90-161.7. Reinstatement.—A licensee who has allowed license to lapse by failure to renew as herein provided may apply for reinstatement on a form provided by the board. The board shall require the applicant to return the completed application with the required fee and to furnish a statement of the reason for failure to apply for renewal prior to the deadline. If the license has lapsed for at least five years, the board shall require the applicant to complete satisfactorily a refresher course approved by the board. The board may require any applicant for reinstatement to satisfy the board that the license should be reinstated. If, in the opinion of the board, the applicant has so satisfied the board, it shall issue a renewal of license to practice nursing, or it shall issue a license to practice nursing for a limited time.

"§ 90-162. Inactive list.—(a) When a licensee submits a request for inactive status, the board shall issue to the licensee a statement of inactive status and shall place the licensee's name on the inactive list. While on the inactive list, the person shall not be subjected to renewal requirements and shall not practice nursing in North Carolina.

(b) When such person desires to be removed from the inactive list and returned to the active list, an application shall be submitted to the board on a form furnished by the board and the fee shall be paid for license renewal. The board shall require evidence of competency to resume the practice of nursing before returning the applicant to active status.

"§ 90-163. Revocation, suspension, or denial of licensure.—In accordance with the provisions of Chapter 150A of the General Statutes, the board may require remedial education, issue a letter of reprimand, restrict, revoke, or suspend any license to practice nursing in North Carolina or deny any application for licensure if the board determines that the nurse or applicant:

1. has given false information or has withheld material information from the board in procuring or attempting to procure a license to practice nursing;
2. has been convicted of or pleaded guilty or nolo contendere to any crime which indicates that the nurse is unfit or incompetent to practice nursing or that the nurse has deceived or defrauded the public;
3. has a mental or physical disability or uses any drug to a degree that interferes with his or her fitness to practice nursing;
4. engages in conduct that endangers the public health;
5. is unfit or incompetent to practice nursing by reason of deliberate or negligent acts or omissions regardless of whether actual injury to the patient is established;
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(6) engages in conduct that deceives, defrauds, or harms the public in the course of professional activities or services; or

(7) has willfully violated any provision of this Article or of regulations enacted by the board.

The board may take any of the actions specified in subdivisions (1) through (7) of this section when a registered nurse approved to perform medical acts has violated rules governing the performance of medical acts by a registered nurse; provided this shall not interfere with the authority of the Board of Medical Examiners to enforce rules and regulations governing the performance of medical acts by a registered nurse.

The board may reinstate a revoked license or remove licensure restrictions when it finds that the reasons for revocation or restriction no longer exist and that the nurse or applicant can reasonably be expected to safely and properly practice nursing.

"§ 90-164. Standards for nursing programs.—A nursing program may be operated under the authority of a general hospital, an educational institution or agency, or any other authority satisfactory to the board. The board shall establish, revise, or repeal standards for nursing programs. These standards shall specify program requirements, curricula, faculty, students, facilities, resources, administration, and describe the approval process. The standards approved by the board and in effect on June 30, 1980, shall be the prescribed standards. Before making any substantive change in the standards the board shall hold a hearing in accordance with G.S. Chapter 150A. Any institution desiring to establish a nursing program shall apply to the board and submit satisfactory evidence that it will meet the standards prescribed by the board. Those standards shall be designed to ensure that graduates of those programs have the educational training to safely and properly practice nursing. The board shall encourage the continued operation of all present programs that meet the standards approved by the board and the board shall promote the establishment of additional programs.

"§ 90-164.1. Approval.—The board shall designate persons to survey proposed nursing programs, including the clinical facilities. The persons designated by the board shall submit a written report of the survey to the board. If in the opinion of the board the standards for approved nursing education are met, the program shall be given approval.

"§ 90-164.2. Periodic surveys.—The board shall designate persons to survey all nursing programs in the State at least every five years or more often as deemed necessary. Written reports of such surveys shall be submitted to the board. If the board determines that any approved nursing program does not meet or maintain the standards required by the board, notice thereof in writing specifying the deficiencies shall be given immediately to the institution responsible for the program. The board shall withdraw approval from a program which fails to correct deficiencies within a reasonable time. The board shall publish annually a list of nursing programs in this State showing their approval status.

"§ 90-164.3. Baccalaureate in nursing candidate credits.—Every graduate of a diploma or associate degree school of nursing in this State who has passed the registered nurse examination shall, upon admission to any State-supported institution of higher learning offering baccalaureate education in nursing, be granted credit for previous experience in the diploma or associate degree school
of nursing on an individual basis by the utilization of the most effective method of evaluation to the end that the applicant shall receive optimum credit and that upon graduation the applicant will have earned the baccalaureate degree in nursing.

"§ 90-165. Continuing education programs.—(a) Upon request, the board shall grant approval to continuing education programs upon a finding that the program offers an educational experience designed to enhance the practice of nursing.

(b) If the program offers to teach nurses to perform advance skills, the board may grant approval for the program and the performance of the advanced skills by those successfully completing the program when it finds that the nature of the procedures taught in the program and the program facilities and faculty are such that a nurse successfully completing the program can reasonably be expected to carry out those procedures safely and properly.

"§ 90-166. License required.—No person shall practice or offer to practice as or use any card, title or abbreviation to indicate that such person is a registered nurse or licensed practical nurse unless that person is currently licensed as provided by this Article. This Article shall not, however, be construed to prohibit or limit the following:

(1) the performance by any person of any act for which that person holds a license issued pursuant to North Carolina law;

(2) the clinical practice by students enrolled in approved nursing programs under the supervision of qualified faculty;

(3) the performance of nursing performed by persons who hold a temporary license issued pursuant to G.S. 90-161.5;

(4) the delegation to any person, including a member of the patient’s family, by a physician licensed to practice medicine in North Carolina, a licensed dentist or registered nurse of those patient-care services which are routine, repetitive, limited in scope that do not require the professional judgment of a registered nurse or licensed practical nurse;

(5) assistance by any person in the case of emergency.

Any person permitted to practice nursing without a license as provided in subdivision (2) or (3) of this section shall be held to the same standard of care as any licensed nurse.

"§ 90-167. Prohibited acts.—It shall be a violation of this Article for any person to:

(1) sell, fraudulently obtain, or fraudulently furnish any nursing diploma or aid or abet therein;

(2) practice nursing under cover of any fraudulently obtained license;

(3) practice nursing without a license;

(4) conduct a nursing program that is not approved by the board; or

(5) employ unlicensed persons to practice nursing in violation of this Article.

"§ 90-168. Violation of Article.—The violation of any provision of this Article, except G.S. 90-169, shall be a misdemeanor punishable in the discretion of the court.

"§ 90-168.1. Injunctive authority.—The board may apply to the superior court for an injunction to prevent violations of this Article or of any rules enacted pursuant thereto. The court is empowered to grant such injunctions regardless of whether criminal prosecution or other action has been or may be instituted as a result of such violation.
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“§ 90-169. Reports: immunity from suit.—Any person who has reasonable cause to suspect misconduct or incapacity of a licensee or who has reasonable cause to suspect that any person is in violation of this Article, including those actions specified in G.S. 90-163 (1) through (7), should report the relevant facts to the board. Upon receipt of such charge or upon its own initiative, the board may give notice of an administrative hearing or may, after diligent investigation, dismiss unfounded charges. Any person making a report pursuant to this section shall be immune from any criminal prosecution or civil liability resulting therefrom unless such person knew the report was false or acted in reckless disregard of whether the report was false.”

Sec. 2. On January 1, 1982, the terms of office of the physician and hospital administrator board members shall expire and the Governor shall appoint two public members to the board as follows: one for a two-year term and one for a three-year term. The terms of office of the registered nurse members and licensed practical nurse members shall expire at the times they would have if this Article had not been enacted. The North Carolina Board of Nursing shall conduct an election in 1981 to elect: (1) for a one-year term, a community health nurse, a nurse educator, and two licensed practical nurses; (2) for a two-year term, one licensed practical nurse, one registered nurse approved to perform medical acts, one nurse educator, and one hospital-employed nursing service director; and (3) for a three-year term, one physician-employed nurse, one nurse employed by a skilled or intermediate care facility, one registered nurse employed by a hospital primarily engaged in providing patient care services, and one licensed practical nurse. Thereafter, members shall serve a three-year term and shall be selected as provided in G.S. 90-160.

Sec. 3. Severability. If any provision of this Article or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the act and of the application of such provision to other persons and circumstances shall not be affected thereby.

Sec. 4. G.S. 143-34.12 is amended by deleting line 8 which reads as follows: “Chapter 90, Article 9, entitled ‘Nurse Practice Act’.”

Sec. 5. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 12th day of May, 1981.

H. B. 413  CHAPTER 361

AN ACT TO ENABLE THE WASTEWATER TREATMENT PLANT OPERATORS CERTIFICATION COMMISSION TO ASSESS ADDITIONAL FEES FOR THE LATE PAYMENT OF ANNUAL FEES AND TO ESTABLISH MAILING LIST FEES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90A-42(7) as the same appears in the 1979 Cumulative Supplement to the 1975 Replacement Volume 2C is hereby amended by deleting the word “Renewal”.

Sec. 2. G.S. 90A-42(8) as the same appears in the 1979 Cumulative Supplement to the 1975 Replacement Volume 2C is hereby amended by deleting the word “and”.

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Sec. 3. G.S. 90A-42(9) as the same appears in the 1979 Cumulative Supplement to the 1975 Replacement Volume 2C is hereby amended to read as follows:

“(9) Late Payment of Annual Fee, five dollars ($5.00), in addition to the Regular Fee called for in number (7) hereinabove; and”.

Sec. 4. G.S. 90A-42 as the same appears in the 1979 Cumulative Supplement to the 1975 Replacement Volume 2C is hereby amended by adding a new subsection (10) to read as follows:

“(10) Mailing List Fees, upon request for mailing lists of wastewater treatment plant operators and/or plants, shall be made available upon payment of fees at a rate of five dollars ($5.00) per 100 names of certified operators and/or facilities, with a minimum payment of fifty dollars ($50.00).”

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of May, 1981.

H. B. 544

CHAPTER 362

AN ACT REGARDING IDENTIFICATION OF THE DRAFTER OF A DEED OR DEED OF TRUST.

The General Assembly of North Carolina enacts:

Section 1. G.S. 47-17.1 is amended by deleting the phrase “the draftsman of the instrument” and substituting the phrase “either the person or law firm who drafted the instrument”.

Sec. 2. G.S. 47-17.1 is further amended by deleting the phrase “the draftsman designated” and substituting the phrase “either the person or law firm who drafted the instrument designated”.

Sec. 3. This act is effective upon ratification and applies to all documents presented for registration on or after that date.

In the General Assembly read three times and ratified, this the 12th day of May, 1981.

H. B. 565

CHAPTER 363

AN ACT TO AMEND THE CHARTER OF THE CITY OF CHARLOTTE TO PROVIDE CERTAIN PROVISIONS WITH RESPECT TO APPOINTMENTS TO COMMITTEES, BOARDS, AND COMMISSIONS.

The General Assembly of North Carolina enacts:

Section 1. Chapter V, Subchapter A, Section 5.01(a) of the Charlotte City Charter being Chapter 713, Session Laws of 1965, is amended by the addition of the following language at the end of said subsection:

“It is desirable that in appointing persons to boards, commissions and authorities, the appointing authority should attempt to secure reasonable representation on each such body of all sexes, races, geographic sections of the city and political parties. Provided, however, that such representation shall not be required, and the validity of any appointment may not be challenged on grounds that such representation has not been achieved.”

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of May, 1981.
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H. B. 566  CHAPTER 364

AN ACT TO ALLOW THE CITY OF CHARLOTTE TO DESIGNATE A PLANNING AGENCY TO PERFORM SOME AS WELL AS ALL THE DUTIES OF THE BOARD OF ADJUSTMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-388(a) is amended by rewriting the last sentence to read: "A city may designate a planning agency to perform any or all of the duties of a board of adjustment in addition to its other duties."

Sec. 2. This act shall apply only to the City of Charlotte.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of May, 1981.

H. B. 567  CHAPTER 365

AN ACT TO AUTHORIZE THE MAYOR AND CITY COUNCIL OF THE CITY OF CHARLOTTE TO SHARE APPOINTMENTS OF MEMBERS TO CERTAIN BOARDS, COMMISSIONS, AND AUTHORITIES.

The General Assembly of North Carolina enacts:

Section 1. The Mayor and City Council of the City of Charlotte are hereby authorized and empowered to develop a plan and adopt such ordinances or resolutions as may be necessary to provide that the mayor shall appoint one-third (1/3) of the membership, and the council shall appoint two-thirds (2/3) of the membership on the following boards, commissions, and authorities:

(1) The Charlotte Auditorium-Coliseum-Civic Center Authority;
(2) The Civil Service Board for the City of Charlotte;
(3) The Housing Authority of the City of Charlotte; and
(4) The Charlotte Board of Adjustment.

Sec. 2. This act shall apply only to the City of Charlotte.

Sec. 3. All laws and clauses of law in conflict with this act are hereby repealed.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of May, 1981.

H. B. 570  CHAPTER 366

AN ACT TO AMEND THE CHARTER OF THE CITY OF CHARLOTTE TO PROVIDE A VETO AND A VOTE FOR THE MAYOR IN CERTAIN SITUATIONS.

The General Assembly of North Carolina enacts:

Section 1. Chapter III, Subchapter B, Section 3.23(b) of the Charlotte City Charter being Chapter 713, Session Laws of 1965, as rewritten by Chapter 140, Session Laws of 1971 and by ordinance under G.S. 160A-106 is hereby amended by deleting the following:

"Provided: as to ordinances, unless they are approved by at least nine (9) members of the council, the mayor shall have the power to provide for a period of additional deliberation by postponing the passage of the ordinance until the next regular or special meeting of the council. An ordinance postponed for
additional deliberation by the mayor shall automatically be on the agenda at the next regular or special meeting of the council, but shall not become effective until reapproved by the council with at least eight (8) members voting in the affirmative at such regular or special meeting of the council. In the absence of the mayor, the mayor pro tempore shall preside, but shall not have postponement power, and shall only vote when so presiding as herein provided for the mayor”, and by inserting in lieu of thereof the following:

“Except for council appointments to committees, boards, and commissions; its employment of the city manager, the city attorney and the city clerk; its internal affairs and matters which must be approved by the voters, the mayor may veto any action adopted by the city council. The veto must be exercised at the meeting at which the action was taken. An action vetoed by the mayor shall automatically be on the agenda at the next regular or special meeting of the council, but shall not become effective unless it was readopted by the council with at least seven members voting in the affirmative. In the absence of the mayor, the mayor pro tempore shall preside, but shall not have veto power, and shall only vote when so presiding as herein provided for the mayor”.

Sec. 2. Chapter III, Subchapter B, Section 3.23(b) of the Charlotte City Charter as rewritten by Chapter 140, Session Laws of 1971 is hereby further amended by adding the following at the end of the present subsection:

“; provided further, however, the mayor shall have a vote in the consideration of the employment or dismissal of the city manager, the city attorney and the city clerk.”

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of May, 1981.

H. B. 632  CHAPTER 367

AN ACT TO PROVIDE THAT THE BOARD OF ADJUSTMENT PROCEDURES SHALL APPLY TO THE CITY COUNCIL OF WILMINGTON WHEN ISSUING SPECIAL USE PERMITS OR CONDITIONAL USE PERMITS AND REWRITING G.S. 160A-388(e) TO CLARIFY THE PROCEDURES FOR JUDICIAL REVIEW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-388 is amended by adding a new sentence reading as follows:

“When issuing special use permits or conditional use permits, the city council shall follow the procedures for boards of adjustment set forth in G.S. 160A-388, and every such decision of the city council shall be subject to review by the superior court by proceedings in the nature of certiorari.”

Sec. 2. G.S. 160A-388(e) is amended by deleting the last two sentences and inserting the following in lieu thereof:

“Any requests for review by the superior court shall be filed with the clerk of superior court within 30 days after the decision of the board is filed in such office as the ordinance specifies, or after a written copy thereof is delivered to the aggrieved party seeking review, whichever is later. The decision of the board may be delivered to the aggrieved party seeking review either by personal service, or registered mail or certified mail return receipt requested. No
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aggrieved party shall be entitled to review unless he shall have filed a written request for a copy of the board’s decision with the secretary or chairman of the board at the time of its hearing of the case."

Sec. 3. This act applies to the City of Wilmington only.
Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of May, 1981.

H. B. 670    CHAPTER 368

AN ACT TO ALLOW THE TOWN OF PARKTON TO COLLECT ON MOTOR VEHICLES A TAX OF NOT MORE THAN FIVE DOLLARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-97(a) is amended by adding immediately after the words “Town of Stoneville” each time they appear, the words “, the Town of Parkton”.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of May, 1981.

H. B. 712    CHAPTER 369

AN ACT TO INCREASE THE FEE FOR ARREST OR PERSONAL SERVICE OF CRIMINAL PROCESS TO FOUR DOLLARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-304(a)(1), as the same appears in the 1979 Cumulative Supplement to Volume 1B of the General Statutes of North Carolina, is amended by striking from line 2 of the said subsection (1) the words and figures “two dollars ($2.00)” and inserting in lieu thereof the words and figures “four dollars ($4.00)”.

Sec. 2. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 12th day of May, 1981.

H. B. 716    CHAPTER 370

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF JAMESTOWN AND TO REPEAL PRIOR LOCAL ACTS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Jamestown is hereby revised and consolidated to read as follows:

"THE CHARTER OF THE TOWN OF JAMESTOWN.

"ARTICLE 1.

"INCORPORATION, CORPORATE POWERS AND BOUNDARIES.

"Section 1.1. Incorporation. The Town of Jamestown, North Carolina in the County of Guilford and the inhabitants thereof, shall continue to be a municipal body politic and corporate, under the name and style of the Town of Jamestown, hereinafter at times referred to as the 'Town'.

"Sec. 1.2. Powers. The Town of Jamestown shall have and may exercise all of the powers, duties, rights, privileges and immunities which are now or hereafter
may be conferred, either expressly or by implication, upon the Town of Jamestown specifically or upon municipal corporations generally by this Charter, by the State Constitution, or by general or local law.

"Sec. 1.3. Corporate Limits. The corporate limits of the Town shall be those existing at the time of ratification of this Charter, as the same are set forth on the official map of the Town, and as the same may be altered from time to time in accordance with law. An official map of the Town, showing the current Town boundaries, shall be maintained permanently in the office of the Town Clerk, and shall be available for public inspection. Immediately upon alteration of the corporate limits made pursuant to law, the appropriate changes to the official map of the Town shall be made.

"ARTICLE II.

"MAYOR AND TOWN COUNCIL.

"Sec. 2.1. Governing Body. The Mayor and Town Council, elected and constituted as herein set forth, shall be the governing body of the Town. On behalf of the Town, and in conformity with applicable laws, the Mayor and Council may provide for the exercise of all municipal powers, and shall be charged with the general government of the Town.

"Sec. 2.2. Mayor; Term of Office; Duties. The Mayor shall be elected by and from the qualified voters of the Town for a term of two years, in the manner provided by Article III of this Charter; provided, the Mayor shall serve until his successor is elected and qualified. The Mayor shall be the official head of the Town government, shall preside at all meetings of the Town Council, and shall have the powers and duties of Mayor as prescribed by this Charter and the General Statutes. The Mayor shall have the right to vote on matters before the Council only where there are an equal number of votes in the affirmative and in the negative.

"Sec. 2.3. Town Council; Terms of Office. The Town Council shall be composed of four members, each of whom shall be elected for terms of two years, in the manner provided by Article III of this Charter; provided Council members shall serve until their successors are elected and qualified.

"Sec. 2.4. Mayor Pro Tempore. In accordance with applicable State laws, the Town Council shall appoint one of its members to act as Mayor pro tempore to perform the duties of the Mayor in the Mayor’s absence or disability. The Mayor pro tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Council.

"Sec. 2.5. Meetings of the Council. In accordance with applicable State laws, the Council shall establish a suitable time and place for its regular meetings. Special meetings may be held according to applicable provisions of the General Statutes.

"ARTICLE III.

"ELECTIONS.

"Sec. 3.1. Regular Municipal Elections; Conduct. Regular municipal elections shall be held in the Town every two years in odd-numbered years, and shall be conducted in accordance with the uniform municipal election laws of North Carolina. The Mayor and members of the Council shall be elected according to the nonpartisan primary and election method as specified in G.S. 163-294.

"Sec. 3.2. Election of the Mayor. At the regular municipal election in 1981, and every two years thereafter, there shall be elected a Mayor to serve a term of
two years. The Mayor shall be elected by the qualified voters of the Town voting at large.

"Sec. 3.3. Election of Council Members. At the regular municipal election in 1981, and every two years thereafter, there shall be elected four council members to serve terms of two years. The council members shall be elected by the qualified voters of the Town voting at large.

"ARTICLE IV.

"ORGANIZATION AND ADMINISTRATION.

"Sec. 4.1. Form of Government. The Town shall operate under the Council-Manager form of government, in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Sec. 4.2. Town Manager. The Town Council shall appoint a Town Manager who shall be the administrative head of the Town government, and who shall be responsible to the Council for the proper administration of the affairs of the Town. The Town Manager shall hold office at the pleasure of the Town Council, and shall receive such compensation as the Council shall determine.

"Sec. 4.3. Town Attorney. The Town Council shall appoint a Town Attorney who shall be licensed to engage in the practice of law in the State of North Carolina. It shall be the duty of the Town Attorney to prosecute and defend suits against the Town; to advise the Mayor, Town Council, and other Town officials with respect to the affairs of the Town; to draft all legal documents relating to the affairs of the Town; to inspect and pass upon all agreements, contracts, franchises and other instruments with which the Town may be concerned; to attend meetings of the Town Council; and to perform other duties required by law or as the Council may direct.

"Sec. 4.4. Town Clerk. The Town Manager shall appoint a Town Clerk to keep a journal of the proceedings of the Council, to maintain in a safe place all records and documents pertaining to the affairs of the Town, and to perform such other duties as may be required by law or as the Town Manager may direct.

"Sec. 4.5. Town Finance Officer. The Town Manager shall appoint a Finance Officer to perform the duties of the Finance Officer as required by the Local Government Budget and Fiscal Control Act.

"Sec. 4.6. Town Tax Collector. The Town Council shall appoint a Tax Collector to collect all taxes, licenses, fees and other revenues accruing to the Town, subject to the General Statutes, the provisions of this Charter and the ordinances of the Town. The Tax Collector shall diligently comply with and enforce all the laws of North Carolina relating to the collection of taxes and other revenues by municipalities.

"Sec. 4.7. Consolidation of Functions. The Town Council may provide for the consolidation of any two or more positions of Town Manager, Town Clerk, Tax Collector and Finance Officer, or may assign the functions of any one or more of these positions to the holder or holders of any other of these positions, subject to the Local Government Budget and Fiscal Control Act.

"Sec. 4.8. Other Administrative Officers and Employees. Consistent with applicable State laws, the Manager and Town Council may establish other positions, provide for the appointment of other administrative officers and employees, and generally organize the Town government in order to promote the orderly and efficient administration of the affairs of the Town.

"ARTICLE V.

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“PUBLIC IMPROVEMENTS.

“Sec. 5.1. Power of Eminent Domain. The procedures provided in Article 9 of Chapter 136 of the General Statutes, as specifically authorized by G.S. 136-66.3(c), shall be applicable to the Town in the case of acquisition of lands, easements, privileges, rights-of-way and other interests in real property for streets, sewer lines, water lines, electric power lines, and other utility lines in the exercise of the power of eminent domain. The Town, when seeking to acquire such property or rights or easements therein or thereto, shall have the right and authority, at its option and election, to use the provisions and procedures as authorized and provided in G.S. 136-66(c) and Article 9 of Chapter 136 of the General Statutes for any of such purposes without being limited to streets constituting a part of the State Highway system; provided, however, that the provisions of this section shall not apply with regard to properties owned by public service corporations as defined in G.S. 160A-243(c), unless (1) the exercise of such power of eminent domain is either consented to by the owner of the property to be acquired by the Town or (2) it is first adjudicated after notice and a hearing that such acquisition will not prevent or unreasonably impair the continued devotion to the public use of such properties and the operation by such public service corporation.

“ARTICLE VI.

“SPECIAL PROVISIONS.

“Sec. 6.1. Alcoholic Beverage Control. (a) The Town Council of the Town of Jamestown shall, upon a petition to said Council signed by at least fifteen percent (15%) of the registered and qualified voters of the Town of Jamestown, order an election to be held on the question of whether or not municipal liquor control stores may be operated in the Town of Jamestown, and if a majority of the votes cast in such election shall be for the operation of such stores, it shall be legal for a liquor control store or stores to be established and operated in the Town of Jamestown, but if a majority of the votes cast in said election shall be against the operation of liquor control store or stores, no such store or stores shall be established or operated in the Town of Jamestown under the provisions of this section.

(b) The Town Council of the Town of Jamestown may submit the question hereinabove mentioned and call a special election for the purpose of submitting said question on or after the 3rd day of June, 1961. In the event said special election is called the same shall be held and conducted on the date fixed by the Town Council of the Town of Jamestown. A new registration of voters for such election shall not be necessary, and all qualified voters who are properly registered prior to registration for the election and those who register in said liquor election shall be entitled to vote in said election. In said election a ballot shall be used upon which shall be printed on separate lines for each proposition, ‘For Town Liquor Control Stores’, ‘Against Town Liquor Control Stores’. Those favoring establishing and operating liquor stores in the Town of Jamestown shall mark in the voting square to the left of the words, ‘For Town Liquor Control Stores’, printed on the ballot and those opposed to town liquor control stores shall mark in the voting square to the left of the words, ‘Against Town Liquor Control Stores’. Except as otherwise herein provided, if a special election is called, the special election authorized shall be conducted under the same statutes, rules and regulations applicable to general elections for the Town
Council of the Town of Jamestown, and the cost thereof shall be paid from the General Fund of the Town of Jamestown.

(c) If a subsequent election shall be held and at such election a majority of the votes shall be cast 'Against Town Liquor Control Stores', the town liquor control board shall within three months from the canvassing of such votes and the declaration of the results thereof, close said stores and shall thereafter cease to operate the same, and within said three months the town liquor control board shall dispose of all alcoholic beverages on hand, all fixtures, and all other property in the hands and under the control of said board and convert the same into cash and turn the same over to the Town Clerk. Thereafter all Public, Public-Local and Private Laws applicable to the sale of intoxicating beverages within the Town of Jamestown in force and effect prior to the authorization to operate town liquor stores shall be in full force and effect the same as if such election had not been held and until and unless another election is held under the provisions of this section in which a majority of the votes shall be cast 'For Town Liquor Control Stores'. No election shall be called and held in the Town of Jamestown under the provisions of this section within two years from the holding of the last election thereunder. It shall be the duty of the Town Council of the Town of Jamestown to order the liquor election therein authorized within sixty (60) days after a petition signed by fifteen percent (15%) of the registered and qualified voters of the Town of Jamestown requesting the same has been presented and filed with the Town Clerk.

(d) If the operation of Town liquor control stores is authorized under the provisions of this section, the Town Council of the Town of Jamestown shall immediately create a Town Board of Alcoholic Control to be composed of a chairman and two other members who shall be well known for their good character, ability and business ability. Said board shall be known and designated as 'The Town of Jamestown Board of Alcoholic Control'. The chairman of said board shall be designated by the Town Council of the Town of Jamestown and shall serve for his first term a period of three years. The other two members of the Board of Alcoholic Control shall be designated by the Town Council of the Town of Jamestown, and one member shall serve for his first term a period of two years, and the other member shall serve for his first term a period of one year; all terms shall begin with the date of appointment, and after the said term shall have expired, successors in office shall serve for a period of three years. Their successors shall be named by the Town Council of the Town of Jamestown. Any vacancy shall be filled by the Town Council for the unexpired term. Compensation of the members of said Town of Jamestown Board of Alcoholic Control shall be fixed by the Town Council of the Town of Jamestown.

(e) The said Town of Jamestown Board of Alcoholic Control shall have all of the powers and duties imposed by the General Statutes of North Carolina on county boards of alcoholic control and shall be subject to the powers and authority of the State Board of Alcoholic Control the same as county boards of alcoholic control as provided in the General Statutes of North Carolina, except that no liquor control store shall be located in any area zoned as 'residential' as of June 14, 1961. The said Town of Jamestown Board of Alcoholic Control, and the operation of any town liquor store or stores authorized under the provisions of this section shall be subject to and in pursuance of the provisions of Chapter 18A of the General Statutes of North Carolina except to the extent to which the
same may be in conflict with the provisions of this section. In said Chapter 18A of the General Statutes, wherever the word 'County' board of alcoholic control appears, it shall be deemed to include the Town of Jamestown Board of Alcoholic Control. The Town of Jamestown Board of Alcoholic Control shall have authority to employ legal counsel and such other employees as it may deem wise and to fix their compensation. Any law enforcement officer appointed by said Town of Jamestown Board of Alcoholic Control shall have all of the powers provided for law enforcing officers as set forth in Chapter 18A of the General Statutes of North Carolina.

(f) Out of profit remaining after the payment of all cost, capital expenditures and operating expenses, the Town of Jamestown Board of Alcoholic Control shall expend a sum not less than five percent (5%) nor more than ten percent (10%) of such profit for law enforcement purposes, education as to the effects of the use of alcoholic beverages and for the rehabilitation of alcoholics. Said board shall also retain out of such profit a sufficient and proper working capital, the amount thereof to be determined by said board. Such profit as shall thereafter remain shall, at the end of each quarterly period following the establishment of liquor control store or stores, be paid out and distributed as follows:

(1) Thirty percent (30%) shall be allocated and distributed, upon the basis herein provided, to the General Funds of Guilford County and to the general funds of the municipal corporations, other than the Town of Jamestown, located in said county, until they shall establish liquor control stores or unless they shall have established liquor control stores. The amounts distributable to said county and to each of said municipal corporations shall be determined upon the basis of population therein as shown by the latest Federal decennial census; provided, however, the population of said county shall be the entire population of said county exclusive of the population of all of the municipal corporations located therein. Upon the establishing of liquor or alcoholic beverage control store or stores by any municipality located in Guilford County, and in the event any municipal corporation therein has established and in operation alcoholic beverage control stores at the time of the establishment of alcoholic control stores in the Town of Jamestown, other than the Town of Jamestown, the distributive share of such profits which would be payable to such city or town during the period such stores are operated by any such city or town shall be paid by said Town of Jamestown Board of Alcoholic Control to the Town of Jamestown in the same manner and for the same purposes set forth in Subsection (2) of this section.

(2) Seventy percent (70%) shall be allocated and distributed to the Tax Collector of the Town of Jamestown and may be used by the Town of Jamestown in the operation of the water and sewer system of the Town for debt service, for the general fund, or for any other public purpose.”

Sec. 2. The purpose of this act is to revise the Charter of the Town of Jamestown and to consolidate herein certain acts concerning the property, affairs, and government of the Town. It is intended to continue without interruption those provisions of prior acts which are consolidated into this act, so that all rights and liabilities that have accrued are preserved and may be enforced.
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Sec. 3. This act shall not be deemed to repeal, modify, or in any manner affect any of the following acts, portions of acts, or amendments thereto, whether or not such acts, portions of acts, or amendments are expressly set forth herein:

(a) Any acts concerning the property, affairs, or government of public schools in the Town of Jamestown;

(b) Any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

Sec. 4. The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act are hereby repealed:

Chapter 109, Laws of 1816
Chapter 142, Private Laws of 1828-29
Chapter 214, Private Laws of North Carolina, 1858-1859
Chapter 142, Private Laws of North Carolina, 1868-69
Chapter 1014, Public Laws of North Carolina 1907
Chapter 44, Public-Local Laws, Extra Session 1913
Chapter 700, Session Laws of 1947
Chapter 144, Session Laws of 1953
Chapter 847, Session Laws of 1953, as to the Town of Jamestown
Chapter 792, Session Laws of 1961
Chapter 821, Session Laws of 1961
Chapter 776, Session Laws of 1969.

Sec. 5. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests, whether public or private:

(1) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act.

(2) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken pursuant to or within the scope of any provisions of law repealed by this act.

Sec. 6. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(1) The repeal herein of any act repealing such law; or

(2) Any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

Sec. 7. (a) All existing ordinances and resolutions of the Town of Jamestown and all existing rules or regulations of departments or agencies of the Town of Jamestown, not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified or amended.

(b) No action or proceeding of any nature, whether civil or criminal, judicial or administrative, or otherwise, pending at the effective date of this act by or against the Town of Jamestown or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 8. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision of application, and to this end the provisions of this act are declared to be severable.
Sec. 9. Whenever a reference is made in this act to a particular provision of the General Statutes, and such provision is later amended, repealed or superseded, the reference shall be deemed amended to refer to the amended General Statute, or to the General Statute which most clearly corresponds to the statutory provision which is repealed or superseded.

Sec. 10. City Automobile License Tax. G.S. 20-97(a) is amended by adding immediately after the words "Town of Stoneville" each time they appear the words "Town of Jamestown".

Sec. 11. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of May, 1981.

H. B. 774 CHAPTER 371
AN ACT TO PERMIT CONSENT JUDGMENTS IN JUVENILE CASES.

The General Assembly of North Carolina enacts:

Section 1. A new section is added to Article 51 of Chapter 7A of the General Statutes to read:

"§ 7A-641. Consent judgment in abuse, neglect or dependency proceedings.—Nothing in this Article precludes the judge from entering a consent order or judgment on a petition for abuse, neglect or dependency when all parties are present, the juvenile is represented by counsel and all other parties are either represented by counsel or have waived counsel, and sufficient findings of fact are made by the judge."

Sec. 2. This act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 12th day of May, 1981.

H. B. 812 CHAPTER 372
AN ACT TO PROVIDE THAT MEMBERS OF A NONPROFIT CORPORATION AS WELL AS THE BOARD OF DIRECTORS MAY PROPOSE AMENDMENTS TO THE CORPORATION'S CHARTER.

The General Assembly of North Carolina enacts:

Section 1. G.S. 55A-35(a)(1) is amended by inserting between the first and second sentences the following:

"In lieu thereof, a resolution setting forth a proposed amendment and requesting its submission to such a meeting may be approved in writing by the number or proportion of members entitled to call a members' meeting pursuant to G.S. 55A-30(c)."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of May, 1981.
H. B. 557

CHAPTER 373
AN ACT TO INCREASE THE MAXIMUM FINE FOR LITTERING IN MECKLENBURG COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14:399(d) is amended by deleting the phrase "two hundred dollars ($200.00)" and substituting the phrase "five hundred dollars ($500.00)".

Sec. 2. This act applies to the unincorporated areas of Mecklenburg County only.

Sec. 3. This act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 13th day of May, 1981.

H. B. 633

CHAPTER 374
AN ACT TO AMEND THE CHARTER OF THE CITY OF WILMINGTON REGARDING WATER SUPPLY AND SEWAGE DISPOSAL AND LOCAL IMPROVEMENTS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 495, Session Laws of 1977, being the Charter of the City of Wilmington, is amended by making the following changes:

(1) Section 15.16 of Article XV of the City Charter is amended by adding the words "and/or sanitary sewer" after the word "water" and before the word "system" in the third line; and after the word "waterworks" and before the word "system" in the eleventh and sixteenth lines;

(2) Section 15.7 of Article XV of the City Charter is amended by substituting the word "consumers" for the words "citizens of the City of Wilmington" in the third line;

(3) Section 15.9 of Article XV of the City Charter is rewritten to read as follows:

"Sec. 15.9. Authority of council to require sewer connection and to establish connection and use charges. The city council may require the owners of improved property abutting upon the streets in which any sanitary sewer mains are located, or within a reasonable distance thereof, to connect such premises with sanitary sewer mains that are part of the city sanitary sewer system, under such rules and regulations and upon such conditions as the city council shall by ordinance fix and establish.

The city council shall have the power to fix reasonable fees to be charged property owners for the privilege of connecting with such sanitary sewer mains and the subsequent use thereof."

(4) Section 15.4 of Article XV of the City Charter is rewritten to read as follows:

"Sec. 15.4. Authority of city council to require connection with water mains and fix rates for connection with and use of water mains. The city council may require the owners of improved property abutting upon the streets in which any water mains are located, or within a reasonable distance thereof, to connect such premises with water mains that are part of the city waterworks system, under such rules and regulations and upon such conditions as the city council shall by ordinance fix and establish."
The city council shall have the right to fix reasonable fees to be charged property owners for the privilege of connecting with such water mains and the subsequent use thereof.

(5) Section 15.17 of Article XV of the City Charter is amended by deleting the words “in the City of Wilmington” in the third line immediately following the words “can be located” and immediately before the words “or that such”;

(6) Section 15.17 of Article XV of the City Charter is amended by substituting “15.16” for “17.16” in the twelfth line;

(7) Section 19.9 of Article XIX of the City Charter is amended by deleting the words “Upon the advice of the department of public works and engineering and services,” beginning on the first line of the first paragraph and capitalizing the word “the” immediately preceding the words “city council”;

(8) Subsection 19.11(a)(2) is amended by deleting from the fourth line the sentence which reads: “Such costs shall be assessed against the lots and parcels of land according to their respective frontages thereon by equal rate per foot of such frontage.” and by substituting the following therefor: “Assessments may be made on the basis of any of the methods set forth in G.S. 160A-218.”

(9) Section 19.12 of Article XIX of the City Charter is rewritten to read:

“Sec. 19.12. Corner lot exemptions. The council shall have authority to determine the amount and applicability of assessment exemptions for corner lots, and to distinguish between different classifications of property uses. The schedule of exemptions shall not exceed the maximum limitations set forth in G.S. 160A-219. If the corner formed by two (2) intersecting streets is rounded into a curve or is foreshortened for the purpose of providing sight distance or for any other purpose of construction, the frontage for assessment purposes shall be calculated to the midpoint of the curve or foreshortened corner.”

(10) Section 19.13 of Article XIX of the City Charter is amended by deleting the words “frontage and” in the fifth line immediately following the words “which is shown” and before the words “location of each affected lot” and substituting therefor the word “the”; 

(11) Subsection 19.25(b) is amended by deleting “160-93” and substituting therefor “160A-233” in the second line;

(12) Subsection 19.29(3) of Article XIX of the City Charter is amended by rewriting the second paragraph to read:

“In such event, the cost of such improvement shall become a lien upon the particular abutting property and may thereafter be collected either by suit in the name of the City or by foreclosure of the lien in the same manner and subject to the same rules, regulations, costs and penalties as provided by G.S. 160A-233.”

(13) Subsection 19.29(3) of Article XIX of the City Charter is amended by substituting the word “certified” for “registered” immediately after the words “sent by” and before the word “mail” in the fifth line of the first paragraph; and

(14) Section 19.19 is amended by deleting the words: “thirty (30) days after the publication or posting of the notice of confirmation” beginning in the ninth line immediately following the words “due and payable” and before the comma, and substituting therefor the words: “sixty (60) days after the date that the assessment roll is confirmed”.

Sec. 2. This act is effective upon ratification.
H. B. 635  CHAPTER 375
AN ACT TO AMEND THE CHARTER OF THE CITY OF WILMINGTON TO PERMIT PAYMENTS IN LIEU OF DEDICATION OF LAND OR ACTUAL CONSTRUCTION OF REQUIRED IMPROVEMENTS IN THE APPROVAL OF SUBDIVISIONS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 495, Session Laws of 1977, being the Charter of the City of Wilmington, is amended by adding the following new section to Article XXIII:

"Sec. 23.7. Payments in lieu of dedication or reservation of property for recreation purposes or in lieu of actual construction or installation of required community service facilities. (a) In adopting any subdivision control ordinance pursuant to provisions of this Charter or G.S. 160A-372, the City Council is authorized to provide for the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision, or to provide for the payment in lieu thereof of such sum of money as the Council may determine to be the equivalent in value of any such recreation area.

(b) In addition to any of the foregoing powers, the City Council may in adopting any subdivision control ordinance allow a subdivider to pay funds to the City in lieu of the actual installation or construction of required community service facilities. Such facilities may include (without limitation) streets, public utility lines, drainage systems, and other property (real or personal) or improvements proposed or intended to eventually be dedicated to one or more public purposes where it is in the best public interest to delay or otherwise defer their actual installation or completion until a later date and it will not cause undue hardship upon either the residents of the proposed development or the surrounding neighborhood to postpone their actual construction or installation until some future date which may or may not be specified or to even subsequently abandon such improvements altogether whenever appropriate and for good cause. Under no circumstances, however, shall a developer be allowed to avoid installing required improvements or community facilities which are found by the approving bodies to be essential at the time the subdivision is approved.

(c) The City Council may use any monies received in lieu of dedicated recreation areas for acquiring recreation areas beyond the boundaries of the immediate subdivision but within the neighborhood wherein the subdivision lies. City Council may also use funds received in lieu of required improvements for the original intended purpose or for any other lawful public purpose whether or not such funds are used exclusively, in part or in whole, to serve, improve, enhance or otherwise benefit the approved subdivision, it being the express intent of this section to allow such monies to be used to serve the neighborhood or immediate area in which the subdivision lies and not necessarily restrict the use of such funds to use totally within the subdivision itself so long as the use serves some legitimate public purpose in the surrounding community."

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 13th day of May, 1981.

H. B. 851

CHAPTER 376

AN ACT TO AMEND THE NORTH CAROLINA COMPULSORY MEAT INSPECTION LAW TO CONFORM TO CHANGES IN FEDERAL LAW REQUIRING CERTAIN HUMANE METHODS OF SLAUGHTER AS A CONDITION OF GRANTING MEAT INSPECTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-549.17 is amended by inserting "(a)" at the beginning and by adding two new subsections at the end to read:

"(b) For the purpose of preventing the inhumane slaughtering of livestock, the Commissioner shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of the method by which cattle, sheep, swine, goats, horses, mules, and other equines are slaughtered and handled in connection with slaughter in the slaughtering establishments inspected under this law. The Commissioner may refuse to provide inspection to a new slaughtering establishment or may cause inspection to be temporarily suspended at a slaughtering establishment if the Commissioner finds that any cattle, sheep, swine, goats, horses, mules, or other equines have been slaughtered or handled in connection with slaughter at such establishment by any method not in accordance with subsection (c) of this section until the establishment furnishes assurances satisfactory to the Commissioner that all slaughtering and handling in connection with slaughter of livestock shall be in accordance with such a method.

(c) Either of the following two methods of slaughtering of livestock and handling of livestock in connection with slaughter are found to be humane:

(1) In the case of cattle, calves, horses, mules, sheep, swine, and other livestock, all animals are rendered insensible to pain by a single blow or gunshot or an electrical, chemical, or other means that is rapid and effective, before being shackled, hoisted, thrown, cast, or cut; or

(2) By slaughtering in accordance with the ritual requirements of the Jewish faith or any other religious faith that prescribes a method of slaughter whereby the animal suffers loss of consciousness by anemia of the brain caused by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument and handling in connection with such slaughtering."

Sec. 2. G.S. 106-549.23 is rewritten to read:

"§ 106-549.23. Prohibited slaughter, sale and transportation.—No person, firm, or corporation shall, with respect to any cattle, sheep, swine, goats, horses, mules, or other equines, or any carcases, parts of carcases, meat or meat food products of any such animals:

(1) Slaughter any of these animals or prepare any of these articles which are capable of use as human food, at any establishment preparing any such articles for intrastate commerce except in compliance with the requirements of this and the subsequent Article;

(2) Slaughter, or handle in connection with slaughter, any such animals in any manner not in accordance with G.S. 106-549.17(c) of this Article;
(3) Sell, transport, offer for sale or transportation, or receive for transportation, in intrastate commerce:
   a. Any of these articles which (i) are capable of use as human food and (ii) are adulterated or misbranded at the time of sale, transportation, offer for sale or transportation, or receipt for transportation; or
   b. Any articles required to be inspected under this Article unless they have been so inspected and passed; or

(4) Do, with respect to any of these articles which are capable of use as human food, any act while they are being transported in intrastate commerce or held for sale after such transportation, which is intended to cause or has the effect of causing the articles to be adulterated or misbranded."

Sec. 3. This act shall become effective July 1, 1981.
In the General Assembly read three times and ratified, this the 13th day of May, 1981.

S. B. 263

CHAPTER 377

AN ACT TO AUTHORIZE DEFERRED PROSECUTION IN CERTAIN CASES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-1332(c) is hereby amended by deleting the first sentence and inserting in lieu thereof the following:
   "When the court desires more detailed information as a basis for determining the sentence to be imposed than can be provided by a presentence investigation, the court may commit a defendant to the Department of Correction for study for the shortest period necessary to complete the study, not to exceed 90 days, if that defendant has been charged with or convicted of a crime or crimes for which he may be imprisoned for more than six months and if he consents."

Sec. 2. G.S. 15A-1341(a) is hereby amended by adding at the end thereof the following:
   "A person who has been charged with a criminal offense not punishable by a term of imprisonment greater than 10 years may be placed on probation as provided in this Article on motion of the defendant and the prosecutor if the court finds each of the following facts:
   (1) Prosecution has been deferred by the prosecutor pursuant to written agreement with the defendant, with the approval of the court, for the purpose of allowing the defendant to demonstrate his good conduct.
   (2) Each known victim of the crime has been notified of the motion for probation by subpoena or certified mail and has been given an opportunity to be heard.
   (3) The defendant has not been convicted of any felony or of any misdemeanor involving moral turpitude.
   (4) The defendant has not previously been placed on probation and so states under oath.
   (5) The defendant is unlikely to commit another offense punishable by a term of imprisonment greater than 30 days."
Sec. 3. G.S. 15A-1341(c) is hereby amended by adding at the end thereof the following:
“Any person placed on probation upon deferral of prosecution may at any time during the probationary period elect to be tried upon the charges deferred in lieu of remaining on probation.”

Sec. 4. G.S. 15A-1342(a) is hereby amended by deleting the first sentence and by inserting in lieu thereof the following:
“The court may place a convicted offender on probation for a maximum of five years. The court may place a defendant as to whom prosecution has been deferred on probation for a maximum of two years.”

Sec. 5. G.S. 15A-1342 is hereby amended by adding at the end thereof a new subsection (i) to read as follows:
“(i) Immunity from prosecution upon compliance. Upon the expiration or early termination as provided in subsection (b) of a period of probation imposed after deferral of prosecution and before conviction, the defendant shall be immune from prosecution of the charges deferred.”

Sec. 6. The first phrase of G.S. 15A-1342(c) is hereby amended to read as follows:
“When the court places a convicted offender on probation,”.

Sec. 7. The fourth sentence of G.S. 15A-1344(d) is hereby amended by inserting between the word “a” and the word “defendant” the word “convicted” and by striking out the semicolon after the words “initial sentencing” and inserting in lieu thereof the following: “, if any, or may order that charges as to which prosecution has been deferred be brought to trial;”.

Sec. 8. This act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 13th day of May, 1981.

S. B. 274
CHAPTER 378
AN ACT TO RAISE THE MINIMUM AMOUNT OF WEEKLY WORKERS’ COMPENSATION BENEFITS.

The General Assembly of North Carolina enact:

Section 1. G.S. 97-13(c), the first and third paragraphs of G.S. 97-29, the first paragraph of G.S. 97-38, and G.S. 97-61.5(b) are amended by striking “twenty dollars ($20.00)” therefrom and inserting in lieu thereof “thirty dollars ($30.00)”.

Sec. 2. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 13th day of May, 1981.
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S. B. 275  CHAPTER 379
AN ACT TO INCREASE THE AMOUNT OF FUNERAL BENEFITS IN WORKERS' COMPENSATION CASES.

The General Assembly of North Carolina enacts:

Section 1. The first paragraph of G.S. 97-38 and the last paragraph of G.S. 97-40 are each amended by striking "five hundred dollars ($500.00)" and inserting in lieu thereof "one thousand dollars ($1,000)".

Sec. 2. This act shall become effective July 1, 1981 and apply to cases arising on and after that date.

In the General Assembly read three times and ratified, this the 13th day of May, 1981.

S. B. 330  CHAPTER 380
AN ACT TO REPEAL PART 3, ARTICLE 10 OF CHAPTER 143B OF THE GENERAL STATUTES WHICH ESTABLISHED THE LABOR FORCE DEVELOPMENT COUNCIL.

The General Assembly of North Carolina enacts:

Section 1. Part 3, Article 10 of Chapter 143B of the General Statutes, consisting of G.S. 143B-438 and appearing in the 1978 Replacement Volume 3C, is hereby repealed.

Sec. 2. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 13th day of May, 1981.

S. B. 387  CHAPTER 381
AN ACT TO PROVIDE ATTORNEY FEES AND COSTS TO PRINCIPALS OR TEACHERS SUED IN CORPORAL PUNISHMENT CASES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 6 of the General Statutes is hereby amended by adding a new section following G.S. 6-21.3 to be designated G.S. 6-21.4 to read as follows:

"§ 6-21.4. Allowance of counsel fees and costs in certain cases involving principals or teachers.—In any civil action brought against a public school principal or teacher as defined in G.S. 115-146 arising or resulting from the use of corporal punishment, upon a determination that the principal or teacher has prevailed and that the plaintiff's action was frivolous or without substantial merit, the presiding judge may, in his discretion, allow a reasonable attorney fee to the duly licensed attorney representing the principal or teacher. The attorney's fee shall be taxed as part of the court costs."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of May, 1981.
S. B. 276

CHAPTER 382

AN ACT TO REVISE THE CHARTER OF THE TOWN OF GRANITE FALLS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Granite Falls in Caldwell County is hereby rewritten to read as follows:

"THE CHARTER OF THE TOWN OF GRANITE FALLS.

"Sec. 1. Incorporation.—The Town of Granite Falls, heretofore incorporated by the General Assembly, shall continue to operate as a body politic and corporate under the name and style of the 'Town of Granite Falls.'

"Sec. 2. Corporate boundaries.—The corporate boundaries of the Town of Granite Falls shall be those boundaries established by Chapter 41 of the Private Laws of 1925 as amended by annexations conducted since the effective date of that act, and as the same may be altered as provided by law.

"Sec. 3. Corporate powers.—The Town of Granite Falls and its officers and employees shall operate and conduct the business of the town subject to the provisions set forth in Chapter 160A of the North Carolina General Statutes and other 'general law', except as otherwise provided in the town 'charter.' (as the terms in quotations are defined in G.S. 160A-1).

"Sec. 4. Mayor and Council.—(a) The Town of Granite Falls shall have a mayor and a council composed of six members. The mayor and council shall be elected by the voters of the entire town as herein provided. The mayor shall be elected for a term of four years, and the council members shall be elected for staggered terms of four years.

(b) The municipal elections in Granite Falls shall be nonpartisan and decided by a simple plurality. No primary elections shall be held. The municipal elections shall be held and conducted pursuant to the applicable provisions of Chapter 163 of the General Statutes, particularly Articles 23 and 24 thereof.

(c) In the municipal elections to be held on Tuesday after the first Monday in November, 1981, and every four years thereafter, the mayor shall be elected for a term of four years. In this election and the municipal elections held every two years thereafter, three council members shall be elected to continue the system of staggered four-year terms established for the Council of the Town of Granite Falls by Chapter 333 of the Session Laws of 1973.

"Sec. 5. Council/Manager form of government.—(a) The Town of Granite Falls shall operate under the council/manager form of government in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes and any charter provisions not in conflict therewith.

(b) The manager shall be appointed to serve at the pleasure of the Council.

"Sec. 6. Attorney, clerk, and tax collector.—(a) The Council shall appoint a town attorney to serve at its pleasure and to be its legal advisor.

(b) The town clerk shall be appointed by the manager.

(c) As provided in G.S. 105-349, the Council shall either appoint a tax collector or confer the duties of tax collector upon a qualified employee appointed by the manager.

"Sec. 7. Contracts and documents.—(a) Unless otherwise provided by law, no contract shall be binding upon the Town of Granite Falls unless it is either:

(1) Made by or pursuant to an ordinance or resolution that authorizes the town to enter into a contract for an identified purpose;
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(2) Reduced to writing and approved by the Council; or
(3) Authorized by ordinance or resolution referring generally to a class of contracts (which classification may be on the basis of amount, subject matter, or other basis) that may be executed by designated officials on behalf of the town.

(b) Unless otherwise provided by ordinance or resolution or by general law, no contract or deed shall be binding upon the town unless signed by the town manager and attested by the town clerk.

(c) Unless otherwise provided by ordinance or resolution or by general law, the manager or his designee shall have authority to sign on behalf of the town all licenses or permits issued by the town or other official documents except contracts and deeds.

Sec. 2. The following laws are repealed:
Chapter 323, Private Laws of 1899
Chapter 58, Private Laws of 1905
Chapter 29, Private Laws of 1909
Chapter 96, Private Laws of 1917
Chapter 169, Private Laws of 1933
Chapter 41, Private Laws of 1935
Chapter 127, Private Laws of 1935
Chapter 369, Session Laws of 1947
Chapter 455, Session Laws of 1955
Chapter 326, Session Laws of 1973

Sec. 3. Chapter 1267, Session Laws of 1955 is repealed insofar as it applies to the Town of Granite Falls.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of May, 1981.

H. B. 101  CHAPTER 383

AN ACT TO INCREASE THE PRIORITY AMOUNT THE PERSONAL REPRESENTATIVE OR CLERK OF COURT MAY PAY FROM THE ESTATE OF AN INTESTATE FOR FUNERAL EXPENSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 28A-19-6 is amended in line six by deleting the phrase: “six hundred dollars ($600)” and substituting the phrase: “one thousand dollars ($1,000)”.

Sec. 2. G.S. 28A-19-6 is further amended on line eleven by deleting the phrase: “six hundred dollars ($600)” and substituting the phrase: “one thousand dollars ($1,000)”.

Sec. 3. G.S. 28A-25-6(f) as found in Volume 2A of the 1979 Supplement is further amended by deleting the existing subdivisions (2) and (3) and by substituting a new subdivision (2) as follows:
“(2) All other claims shall be disbursed according to the order set out in G.S. 28A-19-6.”

Sec. 4. This act shall become effective October 1, 1981, and apply to estates of persons dying on or after that date.
AN ACT TO MAKE CIVIL PROCEDURE RULE 36'S PROVISIONS ON REQUESTS FOR ADMISSIONS MORE EQUITABLE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1A-1, Rule 36(a) is amended by deleting in the second sentence of the second paragraph the phrase “45 days” and substituting in lieu thereof the phrase “60 days”.

Sec. 2. G.S. 1A-1, Rule 36(a) is amended by adding at the end of the first paragraph the sentence: “If the request is served with service of the summons and complaint, the summons shall so state.”

Sec. 3. G.S. 1A-1, Rule 4(b) is amended by adding at the end thereof the sentence: “If a request for admission is served with the summons, the summons shall so state.”

Sec. 4. This act shall become effective October 1, 1981, and applies to actions commenced on or after this date.

In the General Assembly read three times and ratified, this the 14th day of May, 1981.

AN ACT REGARDING BEER ELECTIONS IN YAUPON BEACH.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding any other provision of law, the Board of Commissioners of the Town of Yaupon Beach may call an election on the question of whether any establishment in Yaupon Beach holding a mixed beverage permit may obtain an “on-premises” malt beverage permit.

The ballot shall give the voter the opportunity to vote on the following question:

- FOR on-premises sales of malt beverages by an establishment holding a mixed beverage permit.
- AGAINST on-premises sales of malt beverages by an establishment holding a mixed beverage permit.

If the sale of malt beverages is approved in the town, the State Board of Alcoholic Control may issue “on-premises” malt beverage sale permits to those establishments in Yaupon Beach holding mixed beverage permits.

Sec. 2. Except as provided in Section 1 of this act, the election shall be conducted pursuant to G.S. 18A-52.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of May, 1981.
AN ACT TO ALTER THE DISTRIBUTION OF YAUPON BEACH ABC PROFITS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 430 of the Session Laws of 1971 is amended by deleting the second paragraph of section 6 of that act, including subsections (a) through (e), in its entirety and substituting in lieu thereof the following sentence:

"The town of Yaupon Beach Board of Alcoholic Control shall pay the net profits derived from the operation of alcoholic beverage control stores, on a quarterly basis, to the General Fund of the Town of Yaupon Beach."

Sec. 2. This act shall become effective on July 1, 1981.

In the General Assembly read three times and ratified, this the 14th day of May, 1981.

AN ACT TO AUTHORIZE THE DEPARTMENT OF REVENUE TO GIVE INFORMATION OBTAINED BY IT TO LOCAL TAX AUTHORITIES TO ASSIST THEM IN COLLECTING COUNTY AND MUNICIPAL TAXES.

The General Assembly of North Carolina enacts:

Section 1. The first sentence of G.S. 105-289(e) is amended by inserting the phrase "collecting taxes," after the phrase "appraising taxable property,"

Sec. 2. Section 105-289(e)(3) of the North Carolina General Statutes is rewritten as follows: "(3) For the purpose of this subsection, 'local tax authorities' shall include county tax supervisors, assistant tax supervisors, members of county boards of commissioners, tax commissions, boards of equalization and review, county tax collectors, and the municipal equivalents of such officials. The Department of Revenue may furnish information to local tax authorities only under the following conditions and subject to the following restrictions:

a. The local tax authorities must submit their request in writing, giving the name of the taxpayer and any other pertinent identifying information, describing the specific information sought, and stating the reason for seeking the information; and

b. In responding to the request of local tax authorities, the Department of Revenue shall furnish only the information described in the collector's written request and no other information concerning the taxpayer involved."

Sec. 3. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 14th day of May, 1981.
H. B. 464  CHAPTER 388  
AN ACT REGARDING DISTRIBUTION OF MIXED BEVERAGE PROFITS IN NEW HANOVER COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 860 of the 1979 Session Laws is amended by designating Section 2 as Section 3 and adding a new Section 2 to read:

“Sec. 2. When a mixed beverage permit holder is located in a municipality in which no ABC store is located, the profits are distributed as follows: seventy-five percent (75%) of the profits to the General Fund of the municipality, and twenty-five percent (25%) to the General Fund of New Hanover County.”

Sec. 2. This act shall become effective on July 1, 1981.

In the General Assembly read three times and ratified, this the 14th day of May, 1981.

H. B. 723  CHAPTER 389  
AN ACT TO REPEAL CERTAIN PROVISIONS IN LOCAL ACTS RELATING TO WILDLIFE CONSERVATION IN PENDER COUNTY SO THAT THE GENERAL LAWS AND REGULATIONS GOVERNING THOSE MATTERS WILL APPLY IN PENDER COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 5 of Chapter 258 of the 1969 Session Laws is repealed.

Sec. 2. The last sentence of Section 6 of the 1969 Session Laws, which states: “Any bear taken pursuant to Section 6 of this Act shall not be required to be given to houses of alms.”, is repealed.

Sec. 3. Section 7 of Chapter 258 of the 1969 Session Laws is repealed, and amending Section 3 of Chapter 546 of the 1979 Session Laws is repealed.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of May, 1981.

H. B. 798  CHAPTER 390  
AN ACT TO CLARIFY THE CONDITIONS REQUIRING USE OF AMBER-COLORED FLASHING LIGHTS ON WRECKERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-130.2 is amended to delete from the first sentence the words: “when towing a vehicle” and to substitute therefor the following: “when at the scene of an accident or recovery operation and when towing a vehicle which has a total outside width exceeding 96 inches or which exceeds the width of the towing vehicle.”

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of May, 1981.
H. B. 861  CHAPTER 391
AN ACT TO AUTHORIZE THE RETENTION OF OVERCHARGES MADE DUE TO A MISCALCULATION OF THE TEN DOLLARS PER FOUR LITERS ADD-ON.

The General Assembly of North Carolina enacts:

Section 1. The county and municipal boards of alcoholic control and the State of North Carolina are hereby authorized to retain all overcharges collected on the sale of spirituous liquors sold for resale in mixed beverages pursuant to N.C.G.S. 18A-15(3)c.3 prior to 1 May 1980. Said overcharges shall be applied in the same manner as other sums collected pursuant to N.C.G.S. 18A-15(3)c.3.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of May, 1981.

S. B. 350  CHAPTER 392
AN ACT TO ACCOMMODATE FEDERAL PREEMPTION OF STATE LAWS REGULATING THE FEEDING OF GARBAGE TO SWINE.

Whereas, the Congress of the United States has passed the Swine Health Protection Act, P.L. 96-468, to protect the nation's hog industry from swine fever and other infectious swine diseases associated with feeding garbage to swine; and

Whereas, continuation of the State permit program for regulating the feeding of garbage to swine would amount to an unnecessary duplication of the federal program; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-405.2 is amended by adding a new subsection as follows:

"(d) This Part shall not apply to any person who holds a valid federal permit under the Swine Health Protection Act, P.L. 96-468."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of May, 1981.

S. B. 401  CHAPTER 393
AN ACT TO REPEAL THE DOUBLE SUNSET PROVISION ON THE RADIATION PROTECTION ACT.

Whereas, the 1975 General Assembly ratified the Radiation Protection Act in 1975 and attached an expiration date of June 30, 1981, at that time; and

Whereas, the 1977 General Assembly established the Governmental Evaluation Commission and attached a second sunset provision on the Radiation Protection Act of July 1, 1983, without repealing the prior action of the 1975 General Assembly; and

Whereas, it is necessary to repeal the provision in the 1975 Session Laws in order to remove one of the two sunset dates; Now, therefore,

The General Assembly of North Carolina enacts:
Section 1. Section 8 of Chapter 718 of the 1975 Session Laws is amended by replacing the comma after "1975" with a period and by deleting the words "and shall expire June 30, 1981".

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 14th day of May, 1981.

S. B. 413  CHAPTER 394
AN ACT RELATING TO INSURANCE PREMIUM FINANCING.
The General Assembly of North Carolina enacts:

Section 1. G.S. 58-59(c) is amended in line 9 thereof by deleting the words and figures "ten dollars ($10.00)" and inserting in lieu thereof the words and figures "fifteen dollars ($15.00)".

Sec. 2. G.S. 58-59.5(b) is amended by deleting the last two sentences which begin on line 6 and end on line 12.

Sec. 3. This act shall become effective 30 days after ratification.
In the General Assembly read three times and ratified, this the 14th day of May, 1981.

H. B. 436  CHAPTER 395
AN ACT REGARDING COMPETITIVE BIDDING BY THE BRUNSWICK COUNTY BOARD OF EDUCATION.
The General Assembly of North Carolina enacts:

Section 1. When competitive bidding is required, the Brunswick County Board of Education may, in its discretion, (1) submit its request to the Secretary of Administration pursuant to Article 3 of Chapter 143 of the General Statutes or (2) let the contract itself pursuant to Article 8 of that Chapter as though the Board were a county or city governing board.

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 18th day of May, 1981.

H. B. 460  CHAPTER 396
AN ACT TO CHANGE THE MANNER OF APPOINTMENT OF THE BEAUFORT-MOREHEAD CITY AIRPORT AUTHORITY AND TO REPEAL SPECIAL LEGISLATION DEALING WITH BONDS
The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 426, Public-Local Laws of 1941 is rewritten to read:

"Sec. 2. The Airport Authority shall consist of five members. One of the members shall be a resident voter of the City of Beaufort and shall be appointed by the City Commissioners of the City of Beaufort. One of the members shall be a resident voter of the City of Morehead City and shall be appointed by the City Commissioners of the City of Morehead City, and the other three members shall be from the county at large and shall be appointed by the Carteret County Board of Commissioners. The said members of the Airport Authority shall be appointed to serve for a period of two years. Each of the members and their successors so appointed shall take and subscribe before the
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Clerk of Superior Court, an oath of office and shall file the same with the Carteret County Board of Commissioners.

Sec. 2. Subdivision (5) of Section 4 of Chapter 426, Public-Local Laws of 1941 is repealed.

Sec. 3. Subdivision (1) of Section 4 of Chapter 426, Public-Local Laws of 1941 is amended by deleting all the material after the last semicolon and inserting the following in lieu thereof:

"to issue bonds as permitted by the Local Government Finance Act."

Sec. 4. This act is effective upon ratification. Section 1 of this act shall not invalidate any of the current appointments to the Beaufort-Morehead City Airport Authority, nor shall Section 1 of this act have any effect on any of the powers, duties, actions or decisions made by the current members of the Beaufort-Morehead City Airport Authority. Section 1 of this act shall apply as to vacancies currently existing on the Authority as of the effective date of this act as well as all vacancies which may occur hereafter on the Authority.

In the General Assembly read three times and ratified, this the 18th day of May, 1981.

H. B. 679  CHAPTER 397

AN ACT TO PROVIDE THAT WHEN VACANCIES OCCUR ON THE DAVIDSON COUNTY BOARD OF COMMISSIONERS, THE APPOINTING AUTHORITY MUST APPOINT THE PERSON RECOMMENDED BY THE POLITICAL PARTY OF THE VACATING MEMBER.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 267, Session Laws of 1979 is amended by deleting the word "Polk County" and inserting in lieu thereof the words "Polk and Davidson Counties".

Sec. 2. Chapter 402, Session Laws of 1955 is repealed.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of May, 1981.

H. B. 709  CHAPTER 398

AN ACT TO REPEAL CHAPTER 334 OF THE 1963 SESSION LAWS AND CHAPTER 919 OF THE 1967 SESSION LAWS RELATING TO THE OFFICE OF TAX COLLECTOR IN NORTHAMPTON COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 334 of the 1963 Session Laws and Chapter 919 of the 1967 Session Laws are repealed.

Sec. 2. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 18th day of May, 1981.
H. B. 729  CHAPTER 399
AN ACT TO AMEND CHAPTER 811 OF THE 1975 SESSION LAWS OF THE STATE OF NORTH CAROLINA RELATING TO THE SATELLITE CORPORATE LIMITS OF INDIAN BEACH.

The General Assembly of North Carolina enacts:

Section 1. The last sentence in Section 2 of Chapter 811 of the 1975 Session Laws is rewritten to read:

"The area shall be subject to the zoning regulations of Carteret County until the Town of Indian Beach adopts zoning regulations for the area pursuant to Article 19 of Chapter 160A of the North Carolina General Statutes."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of May, 1981.

H. B. 789  CHAPTER 400
AN ACT TO ALLOW THE CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION TO EXTEND PROBATIONARY CERTIFICATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 17C-10(b), as the same appears in the 1979 Cumulative Supplement to the 1978 Replacement Volume 1C of the General Statutes, is hereby amended by adding a sentence at the end of that subsection to read:

"If, however, a criminal justice officer has enrolled in a Commission approved preparatory program of training that concludes later than the end of the officer's probationary period, the Commission may extend, for good cause shown, the probationary period for a period not to exceed six months."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of May, 1981.

H. B. 856  CHAPTER 401
AN ACT TO AMEND G.S. 160A-299 TO AUTHORIZE MUNICIPALITIES TO CLOSE STREETS WITHIN THEIR EXTRATERRITORIAL JURISDICTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-299 (d), as the same appears in the 1979 Supplement to 1976 Replacement Volume 3D of the General Statutes, is amended by inserting the following words between the words “alley” and “that” in the first line thereof:

"within a city or its extraterritorial jurisdiction."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of May, 1981.
CHAPTER 402  Session Laws—1981

H. B. 857  CHAPTER 402
AN ACT TO AMEND G.S. 160A-299 TO AUTHORIZE MUNICIPALITIES TO RESERVE UTILITY IMPROVEMENTS AND EASEMENTS IN STREETS WHICH ARE CLOSED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-299, as the same appears in the 1979 Supplement to 1976 Replacement Volume 3D of the General Statutes, is amended by adding a new subsection (f) to read as follows:

"(f) A city may reserve its right, title, and interest in any utility improvement or easement within a street closed pursuant to this section. Such reservation shall be stated in the order of closing."

Sec. 2. G.S. 160A-299(c), as the same appears in the 1979 Supplement to 1976 Replacement Volume 3D of the General Statutes, is amended by adding the following words and punctuation after the comma in the first line thereof: "subject to the provisions of subsection (f) of this section,..

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of May, 1981.

H. B. 901  CHAPTER 403
AN ACT AUTHORIZING ESTABLISHMENT OF A RECREATION TRUST FUND FOR THE TOWN OF RUTHERFORDTON.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Rutherfordton, being Chapter 350, Session Laws of 1979, is amended by adding a new Article to read:

"ARTICLE VI.

"Recreation Trust Fund.

"Sec. 6.1. Powers Conferred. In addition to all other funds authorized by law, the Town of Rutherfordton is hereby authorized and empowered to establish and maintain a perpetual Recreation Trust Fund in the manner hereinafter provided.

"Sec. 6.2. Establishment of Fund. When the Town Council elects to establish a Recreation Trust Fund, it shall pass an ordinance creating the fund, which ordinance shall state substantially the following:

(1) That a Recreation Trust Fund is thereby created for the Town of Rutherfordton pursuant to the provisions of this act, which fund shall be perpetual;

(2) That the source of moneys to be deposited in said fund shall be gifts, grants and bequests;

(3) That the ordinance shall take effect on its passage.

"Sec. 6.3. Depository. Promptly upon establishment of a Recreation Trust Fund the Town Council shall designate one or more banks or trust companies in North Carolina as official depositories of said fund in which moneys of the fund shall be deposited.

"Sec. 6.4. Investments. Pending their use for the purpose or purposes herinafter authorized, moneys in the Recreation Trust Fund may be deposited at interest or invested in any manner authorized by the Local Government Budget and Fiscal Control Act.

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“Sec. 6.5. Security. The amount of funds on deposit in an official depository or deposited at interest shall be secured as required by the provisions of the Local Government Budget and Fiscal Control Act.

“Sec. 6.6. Purposes of Expenditures. The principal of the Recreation Trust Fund, as such principal shall exist from time to time, shall constitute a perpetual Trust Fund, and no part of the principal of such fund received by gifts, grants or bequests shall be expended for any purpose. The interest, dividends or income from the principal of such fund shall be expended by the Town only for operation costs and expenses of the Town of Rutherfordton Community and Recreation Center; provided, however, if excess accumulates, such excess may be used for related recreational purposes as may be deemed appropriate by unanimous decision of the Town Council.”

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of May, 1981.

H. B. 903  CHAPTER 404

AN ACT TO PROVIDE THAT THE WAGRAM TOWN BOARD OF COMMISSIONERS SHALL BE ELECTED FOR STAGGERED TWO- AND FOUR-YEAR TERMS.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 161, Private Laws of 1911, as amended by Chapter 380, Session Laws of 1957, and Chapter 1038, Session Laws of 1973 (Second Session 1974), is rewritten to read:

“Sec. 3. The officers of the town shall consist of a mayor, five commissioners, a clerk and such other officers who may be deemed necessary, as authorized by general law.”

Sec. 2. Section 4 of Chapter 161, Private Laws of 1911, as amended by Chapter 1038, Session Laws of 1973 (Second Session 1974), is rewritten to read:

“Sec. 4. The town election shall be nonpartisan as provided in G.S. 163-279(a)(1), the results decided by the plurality method, and shall be held and conducted in accordance with Articles 23 and 24 of Chapter 163 of the General Statutes of North Carolina relating to municipal elections.

At the municipal election to be held on Tuesday after the first Monday in November 1981, a mayor and five commissioners shall be elected.

The mayor shall be elected in 1981 and biennially thereafter for a two-year term. In 1981, the two candidates for commissioner receiving the largest number of votes shall serve for a term of four years, and the three candidates for commissioner receiving the next highest number of votes shall be elected for a term of two years. Thereafter, at each regularly scheduled election every two years, the two candidates for commissioner receiving the highest number of votes shall be elected for a term of four years and the candidate for commissioner receiving the next highest number of votes shall be elected for a term of two years. Members shall serve until their successors are elected and qualified.”

Sec. 3. The incumbent mayor and board of commissioners shall serve until their successors are elected and qualified under this act.

Sec. 4. Chapter 1038, Session Laws of 1973 (Second Session 1974), is repealed.
CHAPTER 404    Session Laws—1981

Sec. 5. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 18th day of May, 1981.

H. B. 918    CHAPTER 405
AN ACT TO ALLOW THE CABARRUS COUNTY BOARD OF EDUCATION TO PAY ITS TEN-MONTH EMPLOYEES ON OR BEFORE THE FIFTEENTH DAY OF EACH MONTH.
The General Assembly of North Carolina enacts:
Section 1. Notwithstanding the provisions of Chapter 115 of the General Statutes, the Cabarrus County Board of Education may pay employees who are employed on a ten-month basis on or before the fifteenth day of each month during which they are employed.
Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 18th day of May, 1981.

H. B. 924    CHAPTER 406
AN ACT RELATING TO SEARCH AND HANDLING FEES CHARGED NONRESIDENTS REQUESTING GENEALOGICAL INFORMATION, SO AS TO CLARIFY A CONFLICT BETWEEN TWO LAWS ON THE SAME SUBJECT ENACTED BY THE 1979 GENERAL ASSEMBLY.
The General Assembly of North Carolina enacts:
Section 1. Section 95 of Chapter 801, Session Laws of 1979, is repealed.
Sec. 2. Nothing in this act shall be construed as affecting Chapter 361, 1979 Session Laws, which shall remain in effect.
Sec. 3. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 18th day of May, 1981.

S. B. 314    CHAPTER 407
AN ACT TO INCREASE PAYMENTS FROM THE SUPPLEMENTAL RETIREMENT FUND FOR FIREMEN IN THE CITY OF HICKORY AND TO ALLOW EXPENSES TO BE PAID FROM THE FUND.
The General Assembly of North Carolina enacts:
Section 1. Section 2(c) and Section 3(a) of Chapter 65 of the 1971 Session Laws are amended by deleting the phrase "six hundred dollars ($600.00)" and by substituting the following: "one thousand two hundred dollars ($1,200)."
Sec. 2. Section 7 of Chapter 65 of the 1971 Session Laws is rewritten to read:
"Sec. 7. Bond of treasurer, payment of premium; payment of other expenses.—The board of trustees shall bond the treasurer of the Local Relief Fund with a good and sufficient bond in an amount at least equal to the amount of funds in his control, payable to the board of trustees, and conditioned upon the faithful performance of his duties. This bond is in lieu of the bond required by G.S. 118-6. The board of trustees shall pay from the Local Relief Fund the premiums of the bond of the treasurer. The board of trustees may pay from the
Local Relief Fund all necessary expenses incurred in making investments, handling funds, keeping records and otherwise performing the duties of trustees and treasurer. No trustee shall receive any compensation for service as a trustee."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of May, 1981.

S. B. 366  CHAPTER 408

AN ACT TO EMPOWER DISTRICT BOARDS OF HEALTH TO PROVIDE LIABILITY INSURANCE FOR ITS EMPLOYEES AND TO CONTRACT FOR LEGAL SERVICES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-14 is amended by adding a new subsection to read as follows:

"A district board of health is authorized to provide liability insurance for the members of the board and the employees of the district health department. A district board of health is also authorized to contract for the services of an attorney to represent the board, the district health department and its employees, as may be appropriate. The purchase of liability insurance pursuant to this subsection waives both the district board of health’s and the district health department’s governmental immunity, to the extent of insurance coverage, for any act or omission occurring in the exercise of a governmental function. By entering into a liability insurance contract with the district board of health an insurer waives any defense based upon the governmental immunity of the district board of health or the district health department."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of May, 1981.

S. B. 406  CHAPTER 409

AN ACT TO AMEND G.S. 15A-603 TO REQUIRE THE JUDGE AT A PRELIMINARY HEARING TO ADVISE AN INDIGENT DEFENDANT THAT IF HE IS CONVICTED AND PLACED ON PROBATION HE MAY BECOME LIABLE FOR COSTS OF ASSIGNED COUNSEL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-603(b) is amended by adding the following at the end thereof: “The judge shall also advise the defendant that if he is convicted and placed on probation, payment of the expense of counsel assigned to represent him may be made a condition of probation, and that if he is acquitted, he will have no obligation to pay the expense of assigned counsel.”

Sec. 2. G.S. 7A-450 is amended by adding a new subsection (d) to read as follows:

“(d) If, at any stage in the action or proceeding, a person previously determined to be indigent becomes financially able to secure legal representation and provide other necessary expenses of representation, he must inform the counsel appointed by the court to represent him of that fact. In such
a case, that information is not included in the attorney client privilege, and counsel must promptly inform the court of that information.”

Sec. 3. This act shall become effective October 1, 1981. In the General Assembly read three times and ratified, this the 18th day of May, 1981.

S. B. 170 CHAPTER 410
AN ACT TO EXTEND THE HOURS DURING WHICH THE INTENTIONAL SWEEPING OF GAME LANDS WITH LIGHTS AND THE INTENTIONAL SHINING OF LIGHTS ON DEER ARE PROHIBITED IN ALAMANCE, RANDOLPH, ROCKINGHAM, ROWAN AND WILKES COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-291.1(e1) is amended in line 6 by deleting the language, “from 11:00 p.m. until one-half hour before sunrise” and substituting, “from a half hour after sunset until a half hour before sunrise”.

Sec. 2. This act applies to Alamance, Randolph, Rockingham, Rowan and Wilkes Counties.

Sec. 3. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 18th day of May, 1981.

S. B. 445 CHAPTER 411
AN ACT TO ALLOW CLEVELAND COUNTY TO ESTABLISH VOTING PRECINCTS WITHOUT REGARD TO TOWNSHIP BOUNDARIES.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of G.S. 163-128, a county board of elections may divide a county into precincts for the purpose of voting without regard to township boundaries.

Sec. 2. This act applies to Cleveland County only.

Sec. 3. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 18th day of May, 1981.

H. B. 9 CHAPTER 412
AN ACT TO REWRITE THE ALCOHOLIC BEVERAGE CONTROL LAWS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 18A of the General Statutes is repealed.

Sec. 2. A new Chapter 18B is added to the General Statutes to read as follows:


"§ 18B-100. Purpose of Chapter.—This Chapter is intended to establish a uniform system of control over the sale, purchase, transportation, manufacture, consumption, and possession of alcoholic beverages in North Carolina, and to provide procedures to insure the proper administration of the ABC laws under a uniform system throughout the State. This Chapter shall be liberally construed
to the end that the sale, purchase, transportation, manufacture, consumption, and possession of alcoholic beverages shall be prohibited except as authorized in this Chapter.

Except as provided in this Chapter, local ordinances establishing different rules on the manufacture, sale, purchase, transportation, possession, consumption, or other use of alcoholic beverages, or requiring additional permits or fees, are prohibited.

“§ 18B-101. Definitions.—As used in this Chapter, unless the context requires otherwise:

(1) ‘ABC law’ or ‘ABC laws’ means any statute or statutes in this Chapter or in Article 2C of Chapter 105, and the rules issued by the Commission under the authority of this Chapter.

(2) ‘ABC permit’ or ‘permits’ means any written or printed authorization issued by the Commission pursuant to the provisions of this Chapter, other than a purchase-transportation permit. Unless the context clearly requires otherwise, as in the provisions concerning applications for permits, ‘ABC permit’ or ‘permit’ means a presently valid permit.

(3) ‘ABC system’ means a local board and all ABC stores operated by it, its law enforcement branch, and all its employees.

(4) ‘Alcoholic beverage’ means any beverage containing at least one-half of one percent (0.5%) alcohol by volume, including malt beverages, unfortified wine, fortified wine, spirituous liquor, and mixed beverages. Unless the context clearly requires otherwise, ‘alcoholic beverage’ means taxpaid alcoholic beverage.

(5) ‘ALE Division’ means the Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety.


(7) ‘Fortified wine’ means any wine made by fermentation from grapes, fruits, berries, rice, or honey, to which nothing has been added other than pure brandy made from the same type of grape, fruit, berry, rice, or honey that is contained in the base wine, and which has an alcoholic content of not more than twenty-four percent (24%) alcohol by volume.

(8) ‘Local board’ means a city or county ABC board, or local board created pursuant to the provisions of G.S. 18B-703.

(9) ‘Malt beverage’ means beer, lager, malt liquor, ale, porter, and any other brewed or fermented beverage containing at least one-half of one percent (0.5%), and not more than six percent (6%), alcohol by volume.

(10) ‘Mixed beverage’ means a drink composed in whole or in part of spirituous liquor and served in a quantity less than the quantity contained in a closed package.

(11) ‘Nontaxpaid alcoholic beverage’ means any alcoholic beverage upon which the taxes imposed by the United States, this State, or any other territorial jurisdiction in which the alcoholic beverage was purchased have not been paid.

(12) ‘Person’ means an individual, firm, partnership, association, corporation, other organization or group, or other combination of individuals acting as a unit.

(13) ‘Sale’ means any transfer, trade, exchange, or barter, in any manner or by any means, for consideration.
(14) 'Spiritus liquor' or 'liquor' means distilled spirits or ethyl alcohol, including spirits of wine, whiskey, rum, brandy, gin and all other distilled spirits and mixtures of cordials, liqueur, and premixed cocktails, in closed containers for beverage use regardless of their dilution.

(15) 'Unfortified wine' means wine that has an alcoholic content produced only by natural fermentation or by the addition of pure cane, beet, or dextrose sugar, and that has an alcoholic content of not less than six percent (6%) and not more than seventeen percent (17%) alcohol by volume.

"§ 18B-102. Manufacture, sale, etc., forbidden except as expressly authorized.—(a) General Prohibition. It shall be unlawful for any person to manufacture, sell, transport, import, export, deliver, furnish, purchase, consume, or possess any alcoholic beverages except as authorized by the ABC law.

(b) Violation a Misdemeanor. Unless a different punishment is otherwise expressly stated, any person who violates any provision of this Chapter shall be guilty of a misdemeanor and upon conviction shall be punished by a fine, by imprisonment for not more than two years, or both. In addition the court may impose the provisions of G.S. 18B-202 and of G.S. 18B-503, -504, and -505.

"§ 18B-103. Exemptions.—The following activities shall be permitted:

(1) The use of ethyl alcohol for scientific, chemical, pharmaceutical, mechanical, and industrial purposes;

(2) The use of ethyl alcohol by persons authorized to obtain it tax free, as provided by federal law;

(3) The use of ethyl alcohol in the manufacture and preparation of any product unfit for use as a beverage;

(4) The use of alcoholic beverages by licensed physicians, druggists, or dental surgeons for medicinal or pharmaceutical purposes; or the use of alcoholic beverages by medical facilities established and maintained for the treatment of patients addicted to the use of alcohol or drugs;

(5) The use of grain alcohol by college, university or State laboratories, and by manufacturers of medicine, for compounding, mixing, or preserving medicines or medical preparations, or for surgical purposes;

(6) The manufacture, importation, and possession of denatured alcohol produced and used as provided by federal law;

(7) The manufacture or sale of cider or vinegar;

(8) The possession and use of unfortified or fortified wine for sacramental purposes by any organized church or ordained minister.

"§ 18B-104. Administrative penalties.—(a) Penalties. For any violation of the ABC laws, the Commission may take any of the following actions against a permittee:

(1) Suspend the permittee’s permit for a specified period of time not longer than three years;

(2) Revoke the permittee’s permit;

(3) Fine the permittee up to five hundred dollars ($500.00) for the first violation, up to seven hundred fifty dollars ($750.00) for the second violation, and up to one thousand dollars ($1,000) for the third violation; or

(4) Suspend the permittee’s permit under subdivision (1) and impose a fine under subdivision (3).
(b) Compromise. In any case in which the Commission is entitled to suspend or revoke a permit, the Commission may accept from the permittee an offer in compromise to pay a penalty of not more than five thousand dollars ($5,000). The Commission may either accept a compromise or revoke a permit, but not both. The Commission may accept a compromise and suspend the permit in the same case.

(c) Fines and Penalties to Treasurer. All fines and penalties collected under subsections (a) and (b) shall be remitted by the Commission to the State Treasurer for the General Fund.

(d) Effect on Licenses. Suspension or revocation of a permit includes automatic suspension or revocation of any related State or local revenue license.

(e) Effect on Other Permits. Unless some other disposition is ordered by the Commission, revocation or suspension of a permit under subsection (a) includes automatic revocation or suspension, respectively, of any other ABC permit held by the same permittee for the same establishment.

"§ 18B-105. Advertising.—(a) General Rule. No person shall advertise alcoholic beverages in this State except in compliance with the rules of the Commission.

(b) Rule-making Authority. The Commission shall have the authority to adopt rules to:

(1) Prohibit or regulate advertising of alcoholic beverages by permittees in newspapers, pamphlets, and other print media;
(2) Prohibit or regulate advertising by on-premises permittees of brands or prices of alcoholic beverages via newspapers, radio, television, and other mass media;
(3) Prohibit deceptive or misleading advertising of alcoholic beverages;
(4) Require all advertisements of alcoholic beverages to disclose fully the identity of the advertiser and of the product being advertised;
(5) Prohibit advertisements of alcoholic beverages on the premises of a permittee, or regulate the size, number, and appearance of those advertisements;
(6) Prohibit or regulate advertisement of prices of alcoholic beverages on the premises of a permittee;
(7) Prohibit or regulate alcoholic beverage advertisements on billboards;
(8) Prohibit alcoholic beverage advertisements on outdoor signs, or regulate the nature, size, number, and appearance of those advertisements;
(9) Prohibit or regulate advertising of alcoholic beverages by mail;
(10) Prohibit or regulate contests, games, or other promotions which serve or tend to serve as advertisement for a specific brand or brands of alcoholic beverages; and
(11) Prohibit or regulate any advertising of alcoholic beverages which is contrary to the public interest.

"§ 18B-106. Alcoholic beverages for use on oceangoing ships.—(a) Delivery Permitted. Alcoholic beverages for use outside the United States on oceangoing vessels shall be delivered as follows:

(1) Spirituous liquor may be imported into this State under United States customs bonds, held in United States customs bonded warehouses, and transferred between those warehouses. Spirituous liquors may only be released from customs bonds for delivery to an officer or agent of an
oceangoing vessel who has obtained a permit from the Commission for that purpose.

(2) Malt beverages, unfortified wine, and fortified wine may be sold and delivered by any wholesaler or retailer licensed in this State to an officer or agent of an oceangoing vessel. The Commission may require the officer or agent to obtain a permit before purchasing alcoholic beverages under this subdivision.

(b) Definition. 'Oceangoing vessel' means a ship which plies the high seas in interstate or foreign commerce, in the transport of freight or passengers, or both, for hire exclusively.

(c) Rules. The Commission may issue rules relating to applications for permits and otherwise regulate the importation, sale, and delivery of alcoholic beverages under this section to insure that those beverages are used only on oceangoing vessels outside the United States.

"§18B-107. Alcoholic beverages for use in air commerce.—(a) Purchase and Storage. The Commission may issue permits authorizing air carriers offering regularly scheduled or chartered flights in foreign, interstate, or intrastate commerce to purchase malt beverages, unfortified wine, and fortified wine from any wholesaler or retailer licensed in this State, and to transport those alcoholic beverages. The Commission may also authorize air carriers to store, at facilities approved by the Commission, alcoholic beverages to be sold or served pursuant to subsection (b).

(b) Sale. Air carriers may sell and serve alcoholic beverages anywhere in this State to passengers while in transit aboard any aircraft. At airports which service airplanes boarding at least 150,000 passengers annually, air carriers may serve complimentary alcoholic beverages to their passengers in air carrier passenger rooms approved by the Commission. Alcoholic beverages may not be sold in such a room unless a permit has been issued under Article 10 authorizing sale there.

"§18B-108. Sales on trains.—Malt beverages and unfortified wine may be sold in dining cars, buffet cars, Pullman cars, and club cars of railroad trains in this State, upon receipt of the required revenue license under Chapter 105.

"§18B-109. Direct shipment of alcoholic beverages into State.—(a) General Prohibition. No person shall have any alcoholic beverage mailed or shipped to him from outside this State unless he has the appropriate ABC permit.

(b) Armed Forces Installation. No person shall have malt beverages or unfortified wine shipped directly from a point outside this State to an armed forces installation within this State if those alcoholic beverages are for resale on the installation.

"§18B-110. Emergency.—When the Governor finds that a 'state of emergency', as defined in G.S. 14-288.1, exists anywhere in this State, he may

(1) Order the closing of all ABC stores, and

(2) Order the cessation of all sales, transportation, manufacture, and bottling of alcoholic beverages.

The Governor's order shall apply in those portions of the State designated in the order, for the duration of the state of emergency. Any order by the Governor under this section shall be directed to the Chairman of the Commission and to the Secretary of Crime Control and Public Safety.

"ARTICLE 2.
“State Administration.

§ 18B-200. North Carolina Alcoholic Beverage Control Commission.—(a) Creation of Commission; Compensation. The North Carolina Alcoholic Beverage Control Commission is created to consist of a chairman and two associate members. The chairman shall devote his full time to his official duties and receive a salary fixed by the Governor with the approval of the Advisory Budget Commission. The associate members shall be compensated for per diem, subsistence and travel as provided in Chapter 138 of the General Statutes.

(b) Appointment of Members. Members of the Commission shall be appointed by the Governor to serve at his pleasure.

(c) Vacancy. The Governor shall fill any vacancy on the Commission by appointing a successor to serve at the Governor’s pleasure. If the chairman’s seat becomes vacant, the Governor may designate either the new member or an existing member of the Commission as the chairman.

(d) Employees. The Commission may authorize the chairman to employ, discharge, and otherwise supervise subordinate personnel of the Commission. The Commission shall appoint at least one hearing officer with authority to make investigations, hold hearings, and perform any other duties authorized by Chapter 150A.

§ 18B-201. Conflict of interest.—(a) Financial Interests Restricted. No person shall be appointed to or employed by the Commission, a local board, or the ALE Division, if that person or a member of his household related to him by blood or marriage has or controls, directly or indirectly, a financial interest in any commercial alcoholic beverage enterprise, including any business required to have an ABC permit. The Commission may exempt from this provision any person, other than a Commission member, when the financial interest in question is so insignificant or remote that it is unlikely to affect the person’s official actions in any way. Exemptions may be granted only to individuals, not to groups or classes of people, and each exemption shall be in writing, be available for public inspection, and contain a statement of the financial interest in question.

(b) Self-dealing. The provisions of G.S. 14-234 shall apply to the Commission and local boards.

(c) Dealing for Family Members. Neither the Commission nor any local board shall contract or otherwise deal in any business matter so that a member’s spouse or any person related to him by blood to a degree of first cousin or closer in any way benefits, directly or indirectly, from the transaction unless:

1) The member whose relative benefits from the transaction abstains from participating in any way, including voting, in the decision;

2) The minutes of the meeting at which the final decision is reached specifically note the member whose spouse or relative is benefited and the amount involved in each transaction;

3) The next annual audit of the Commission or local board specifically notes the member and the amount involved in each transaction occurring during the year covered by the audit; and

4) If the transaction is by a local board, the Commission is notified at least two weeks before final board approval of the transaction.

§ 18B-202. Discharge upon conviction.—In addition to imposing any other penalty authorized by law, a judge may remove from office or discharge from employment any Commission or local board member or employee, or any ALE
agent, who is convicted of a violation of any provision of this Chapter or of any felony and may declare that person ineligible for membership or employment with the Commission, any local board, or the ALE Division, for a period of not longer than three years. Conviction of a crime under this Chapter or of any felony shall also be grounds for the Commission to remove from office or discharge from employment any local board member or employee.

"§ 18B-203. Powers and duties of the Commission.—(a) Powers. The Commission shall have authority to:

1. Administer the ABC laws;
2. Provide for enforcement of the ABC laws, in conjunction with the ALE Division;
3. Set the prices of alcoholic beverages sold in local ABC stores as provided in Article 8;
4. Require reports and audits from local boards as provided in G.S. 18B-205;
5. Determine what brands of alcoholic beverages may be sold in this State;
6. Contract for State ABC warehousing, as provided in G.S. 18B-204;
7. Dispose of damaged alcoholic beverages, as provided in G.S. 18B-806;
8. Remove for cause any member or employee of a local board;
9. Supervise or disapprove purchasing by any local board and inspect all records of purchases by local boards;
10. Approve or disapprove rules adopted by any local board;
11. Approve or disapprove the opening and location of ABC stores, as provided in Article 8;
12. Issue ABC permits, and impose sanctions against permittees;
13. Provide for the testing of alcoholic beverages, as provided in G.S. 18-206.

(b) Implied Powers. The Commission shall have all other powers which may be reasonably implied from the granting of the express powers stated in subsection (a), or which may be incidental to, or convenient for, performing the duties given to the Commission.

"§ 18B-204. State warehouse.—(a) Contracting for Private Warehouse. The Commission shall provide for the receipt, storage, and distribution of spirituous liquor by one of the following methods:

1. By negotiated contract with a privately owned warehouse, or
2. By negotiated contract with privately owned warehouses in several regions of the State. The Commission shall choose locations for the warehouses to promote efficient distribution of spirituous liquor to all local boards, to maintain control of that liquor, and to insure the Commission’s supervision of warehousing procedures.

(b) Audits and Inspections. Contracts entered into pursuant to this section shall provide the following:

1. That an annual audited financial statement be prepared and submitted to the Commission by the person contracting with the Commission;
2. That all warehouse records be available for inspection at all times by the Commission and the Department of Revenue; and
3. That all warehouse accounts relating to the receipt, storage, or distribution of spirituous liquor be subject to audit by the State Auditor.

(c) Emergency or Temporary Operation. If the independent operator of a warehouse changes, or if some other occurrence results in substantially impeded
distribution of spurious liquor from a warehouse, the Commission may operate that warehouse on an interim emergency or temporary basis.

(d) Rules. The Commission may adopt rules regarding warehouse operations, and violations of those rules by a party with whom the Commission contracts shall be grounds for termination by the Commission of a contract entered into under this section.

"§ 18B-205. Accounts and reports required.—(a) Accounts and Reports. The Commission may require local boards to submit quarterly mixed beverage reports, quarterly and annual audits, monthly sales records, and any other reports or audits relating to the operations of the local ABC systems.

(b) Accounting System. The Commission may require local boards to use generally accepted accounting standards and a chart of accounts prescribed by the Commission in the operation of ABC stores, and to record all information necessary and useful to the Commission in auditing the operation of ABC systems and administering the ABC law.

(c) Audits. The Commission may audit the operation of any local ABC store or board, and the books of those stores and boards shall remain open to the Commission for inspection.

"§ 18B-206. Standards for alcoholic beverages.—(a) Authority to Set Standards. The Commission may set standards and adopt rules for malt beverages, unfortified wine, fortified wine, and spurious liquor to protect the public against beverages containing harmful or impure substances, beverages containing an improper balance of substances as determined by the Commission, spurious or imitation beverages, and beverages unfit for human consumption. In setting standards and in issuing rules relating to them, the Commission may follow federal guidelines for standards of identity, labeling and advertising contained in Title 27 of the Code of Federal Regulations, or may adopt more restrictive standards.

(b) Effective Date of Standards. A person possessing alcoholic beverages which do not meet a new standard set by the Commission shall have 60 days after the effective date of the standard to sell or otherwise dispose of those alcoholic beverages.

(c) Testing. The Commission may test malt beverages, unfortified wine, fortified wine, and spurious liquor possessed or offered for sale in this State to determine whether they meet the standards set by the Commission. If the Commission chooses to test an alcoholic beverage, that test may be performed by the Commission, the Commission may arrange for the State Chemist to perform the testing, or the Commission may have the testing performed in some other manner. The manufacturer of tested alcoholic beverages shall pay the costs of the test. In lieu of testing an alcoholic beverage, the Commission may rely on testing by a federal agency or an agency of another state or may accept test results from a federal agency, an agency of another state, or the manufacturer of the alcoholic beverage or his authorized agent. A manufacturer who submits test results shall also submit a fee of ten dollars ($10.00) for each test result to cover administrative costs.

"§ 18B-207. Rules.—The Commission shall have authority to adopt, amend, and repeal rules to carry out the provisions of this Chapter. Those rules shall become effective when adopted and filed pursuant to the provisions of Chapter 150A of the General Statutes.

"ARTICLE 3.
“Sale, Possession, and Consumption.

§ 18B-300. Purchase, possession and consumption of malt beverages and unfortified wine.—(a) Generally. Except as otherwise provided in this Chapter, the purchase, consumption, and possession of malt beverages and unfortified wine by individuals 18 years old or older for their own use is permitted without restriction.

(b) Consumption at Off-Premises Establishment. It shall be unlawful to consume, or for a permittee to allow the consumption of, malt beverages or unfortified wine on any premises having only an off-premises permit for the kind of alcoholic beverage being consumed.

(c) Local Ordinance. A city or county may by ordinance regulate the consumption of malt beverages and unfortified wine on property owned or occupied by that city or county.

§ 18B-301. Possession and consumption of fortified wine and spirituous liquor.—(a) Possession at Home. It shall be lawful, without an ABC permit, for any person at least 21 years old to possess for lawful purposes any amount of fortified wine and spirituous liquor at his home or a temporary residence, such as a hotel room.

(b) Possession on Other Property. It shall be lawful, without an ABC permit, for a person to possess for his personal use and the use of his guests not more than four liters of fortified wine or spirituous liquor, or four liters of the two combined, at the following places:

1. The residence of any other person with that person’s consent;
2. Any other property not primarily used for commercial entertainment and not open to the public at the time the alcoholic beverage is possessed, if the owner or other person in charge of the property consents to that possession and consumption;
3. An establishment with a brown-bagging permit as defined in G.S. 18B-1001(7).

(c) Special Occasions. It shall be lawful for a person to possess, without a permit and not for sale, any amount of fortified wine or spirituous liquor for a private party, private reception, or private special occasion, at the following places:

1. His home or a temporary residence, such as a hotel room;
2. Any other property not primarily used for commercial entertainment, which is under his exclusive control and supervision, and which is not open to the public during the event;
3. The licensed premises of any business for which the Commission has issued a Special Occasions permit under G.S. 18B-1001(8), if he is the host of that private function and has the permission of the permittee.

(d) Consumption. It shall be lawful for a person to consume fortified wine and spirituous liquor in any place where it is lawful for him to possess those alcoholic beverages under subsections (a) through (c).

(e) Incident to Sale. It shall be lawful to possess fortified wine and spirituous liquor at any place, such as an ABC store, where possession is a necessary incident to lawful sale. Consumption at such a place shall be unlawful unless the establishment has a permit authorizing consumption on the premises as well as sale.
(f) Unlawful Possession or Use. As illustration, but not limitation, of the
general prohibition stated in G.S. 18B-102(a), it shall be unlawful for:
(1) Any person to consume fortified wine, spirituous liquor, or mixed
beverages or to offer such beverages to another person:
a. On the premises of an ABC store, or
b. Upon any property used or occupied by a local board, or
c. On any public road, street, highway, or sidewalk.
(2) Any person to display publicly at an athletic contest fortified wine,
spiritous liquor, or mixed beverages;
(3) Any person to permit any fortified wine, spirituous liquor, or mixed
beverages to be possessed or consumed upon any premises not
authorized by this Chapter;
(4) Any person to possess or consume any fortified wine, spirituous liquor,
or mixed beverages upon any premises where such possession or
consumption is not authorized by law, or where the person has been
forbidden to possess or consume that beverage by the owner or other
person in charge of the premises;
(5) Any person to possess on any of the premises described in subsections
(a) through (c) a greater amount of fortified wine or spirituous liquor
than authorized by this Chapter;
(6) Any permittee, other than a mixed beverage or culinary permittee, to
possess spirituous liquor or mixed beverages on his licensed premises.

"§ 18B-302. Sale to or purchase by minors.—(a) Sale. It shall be unlawful for
any person to knowingly:
(1) Sell or give malt beverages or unfortified wine to anyone less than 18
years old; or
(2) Sell or give fortified wine, spirituous liquor, or mixed beverages to
anyone less than 21 years old.
(b) Purchase or Possession. It shall be unlawful for:
(1) A person less than 18 years old to purchase or possess malt beverages or
unfortified wine; or
(2) A person less than 21 years old to purchase or possess fortified wine,
spiritous liquor, or mixed beverages.
(c) Aider and Abettor. Any person who aids or abets another in violation of
subsection (a) or (b) shall be guilty of a misdemeanor.
(d) Presumptions. A sale made in violation of subsection (a) shall be presumed
to have been made knowingly unless the seller:
(1) Shows that the purchaser produced a driver’s license, a special
identification card issued under G.S. 20-37.7, a military identification
card, or a passport, showing his age to be at least the required age for
purchase and bearing a physical description of the person named on the
card reasonably describing the purchaser; or
(2) Produces evidence of other facts which reasonably indicated at the time
of sale that the purchaser was at least the required age.
(e) Fraudulent Driver’s License. It shall be unlawful for any person to use or
attempt to use a fraudulent driver’s license or a license issued to some other
person, to obtain alcoholic beverages in violation of subsection (b). Upon
conviction of a violation of this subsection, the court may, in addition to any
other penalty provided for in this Chapter, revoke the defendant’s driver’s
license for a period not exceeding six months.
(f) Allowing Use of License. It shall be unlawful for any person to permit the use of his driver's license by any person who violates or attempts to violate subsection (e). In addition to any other penalty imposed by this Chapter, conviction of a violation of this subsection shall be grounds for the revocation of the defendant's driver's license for a period not exceeding six months.

"§18B-303. Amounts of alcoholic beverages that may be purchased.—(a) Purchases Allowed. Without a permit, a person may purchase at one time:
(1) Not more than 80 liters of malt beverages, other than draft malt beverages in kegs;
(2) Any amount of draft malt beverages in kegs;
(3) Not more than 20 liters of unfortified wine;
(4) Not more than four liters of either fortified wine or spirituous liquor, or four liters of the two combined.
(b) Unlawful Purchase. Except as provided in subsection (c) and in Article 11, it shall be unlawful for any person to purchase, or for any person to sell, an amount of alcoholic beverages greater than that stated in subsection (a).
(c) Greater Amounts. Amounts of alcoholic beverages greater than those listed in subdivisions (a)(3) and (a)(4) may be purchased with a purchase-transportation permit under G.S. 18B-403.

"§18B-304. Sale and possession for sale.—(a) Offense. It shall be unlawful for any person to sell any alcoholic beverage, or possess any alcoholic beverage for sale, without first obtaining an ABC permit for the sale of that alcoholic beverage.
(b) Prima Facie Evidence. Possession of the following amounts of alcoholic beverages, without a permit authorizing that possession, shall be prima facie evidence that the possessor is possessing those alcoholic beverages for sale:
(1) More than 80 liters of malt beverages, other than draft malt beverages in kegs;
(2) More than four liters of spirituous liquor; or
(3) Any amount of nontaxpaid alcoholic beverages.

"§18B-305. Other prohibited sales.—(a) Sale to Intoxicated Person. It shall be unlawful for a permittee or his employee or for an ABC store employee to knowingly sell or give alcoholic beverages to any person who is intoxicated.
(b) Discretion for Seller. Any person authorized to sell alcoholic beverages under this Chapter may, in his discretion, refuse to sell to anyone. It shall be unlawful for any person to knowingly buy alcoholic beverages for someone who has been refused the right to purchase under this subsection.

"§18B-306. Making wines and malt beverages for private use.—An individual may make, possess, and transport native wines and malt beverages for his own use and for the use of his family and guests. Native wines shall be made principally from honey, grapes, or other fruit or grain grown in this State, or from wine kits containing honey, grapes, or other fruit or grain concentrates, and shall have only that alcoholic content produced by natural fermentation. Malt beverages may be made by use of malt beverage kits containing grain extracts or concentrates. Wine kits and malt beverage kits may be sold in this State. No State license or permit is required for, nor is any State tax imposed on, beverages made pursuant to this section.
"§ 18B-307. Manufacturing offenses.—(a) Offenses. It shall be unlawful for any person, except as authorized by this Chapter, to:

(1) Sell or possess equipment or ingredients intended for use in the manufacture of any alcoholic beverage; or

(2) Knowingly allow real or personal property owned or possessed by him to be used by another person for the manufacture of any alcoholic beverage.

(b) Second Offense of Manufacturing. A second offense of unlawful manufacturing of alcoholic beverage shall be a Class I felony.

"§ 18B-308. Sale and consumption at bingo games.—It shall be unlawful to sell or consume, or for the owner or other person in charge of the premises to allow the sale or consumption of, any alcoholic beverage in any room while a raffle or bingo game is being conducted in that room under G.S. 14-292.1.

"ARTICLE 4.

"Transportation.

"§ 18B-400. Amounts that may be transported.—A person may transport at one time the same amount of alcoholic beverages that he is allowed to buy under G.S. 18B-303(a). Greater amounts of fortified wine, unfortified wine and spirituous liquor may be transported with a purchase-transportation permit under G.S. 18B-403.

"§ 18B-401. Manner of transportation.—(a) Open Bottle. It shall be unlawful to transport fortified wine or spirituous liquor in the passenger area of a motor vehicle if the cap or seal on the container has been opened or broken. Violation of this subsection shall constitute a misdemeanor punishable by a fine of twenty-five dollars ($25.00) to five hundred dollars ($500.00), imprisonment for not more than 30 days, or both.

(b) Taxis. It shall be unlawful for a person operating a for-hire passenger vehicle as defined in G.S. 20-4.01(27)b, to transport fortified wine or spirituous liquor unless the vehicle is transporting a paying passenger who owns the alcoholic beverage being transported. Not more than four liters of fortified wine or spirituous liquor, or combination of the two, may be transported by each passenger. A violation of this subsection shall not be grounds for revocation of the driver’s license for illegal transportation of intoxicating liquors under G.S. 20-16(a)(8).

(c) Definition. For purposes of this section, ‘passenger area of a motor vehicle’ means the area designed to seat the driver and passengers and any area within the reach of a seated driver or passenger, including the glove compartment. In the case of a station wagon, hatchback or similar vehicle, the area behind the last upright back seat shall not be considered part of the passenger area.

"§ 18B-402. Alcoholic beverages purchased out-of-State.—A person may bring into North Carolina alcoholic beverages purchased legally outside the jurisdiction of this State in the same amounts that may be legally transported within the State under G.S. 18B-400.

"§ 18B-403. Purchase-transportation permit.—(a) Amounts. With a purchase-transportation permit, a person may purchase and transport an amount of alcoholic beverages greater than the amount specified in G.S. 18B-303(a). A permit authorizes the holder to transport from the place of purchase to the destination indicated on the permit at one time the following amount of alcoholic beverages:
(1) A maximum of 100 liters of unfortified wine;
(2) A maximum of 40 liters of either fortified wine or spirituous liquor, or 40 liters of the two combined; or
(3) The amount of fortified wine or spirituous liquors specified on the purchase-transportation permit for a mixed beverage permittee.

(b) Issuance of Permit. A purchase-transportation permit may be issued by:
(1) The local board chairman;
(2) A member of the local board;
(3) The general manager or supervisor of the local board; or
(4) The manager or assistant manager of an ABC store, if he is authorized to issue permits by the local board chairman.

(c) Disqualifications. A purchase-transportation permit shall not be issued to a person who:
(1) Is not sufficiently identified or known to the issuer;
(2) Is known or shown to be an alcoholic or bootlegger;
(3) Has been convicted within the previous three years of an offense involving the sale, possession, or transportation of nontaxpaid alcoholic beverages; or
(4) Has been convicted within the previous three years of an offense involving the sale of alcoholic beverages without a permit.

(d) Form. A purchase-transportation permit shall be issued on a printed form adopted by the Commission. The Commission shall adopt rules specifying the content of the permit form.

(e) Restrictions on Permit. A purchase may be made only from the store named on the permit. One copy of the permit shall be kept by the issuing person, one by the purchaser, and one by the store from which the purchase is made. The purchaser shall display his copy of the permit to any law enforcement officer upon request.

(f) Time. A purchase-transportation permit is valid only until 9:30 p.m. on the date of purchase, which date shall be stated on the permit.

"§ 18B-404. Additional provisions for purchase and transportation by mixed beverage permittees.—(a) Designated Employee. A mixed beverages permittee may designate an employee to purchase and transport spirituous liquor as authorized by his permit.

(b) Issuance. A mixed beverages purchase-transportation permit shall be issued only by the local board for the county or city in which a licensed establishment is located. If mixed beverages sales have been approved by a city election but the establishment to which the permit has been issued is located at an airport outside the city, the purchase-transportation permit may be issued by the local board of any city located in the same county as the airport, provided that the city has approved the sale of mixed beverages.

(c) Designated Store. A local board may designate a store within its system to make sales to mixed beverages permittees.

"§ 18B-405. Transportation by permittee.—The holder of a permit for the retail sale of malt beverages, unfortified wine, or fortified wine may transport from a wholesaler's place of business to his licensed premises any amount of the alcoholic beverage he is authorized to sell, without a purchase-transportation permit or a commercial transportation permit under G.S. 18B-1112.
“§ 18B-406. Unlawful transportation.—It shall be unlawful to transport a greater amount of alcoholic beverage than permitted by this Article, unless the transportation is authorized under Article 11.

“ARTICLE 5.

“Law Enforcement.

“§ 18B-500. Alcohol law enforcement agents.—(a) Appointment. The Secretary of Crime Control and Public Safety shall appoint alcohol law enforcement agents and other enforcement personnel. The Secretary of Crime Control and Public Safety may also appoint regular employees of the Commission as alcohol law enforcement agents.

(b) Subject Matter Jurisdiction. After taking the oath prescribed for a peace officer, an alcohol law enforcement agent shall have authority to arrest and take other investigatory and enforcement actions for any criminal offense. The primary responsibility of an agent shall be enforcement of the ABC laws and Article 5 of Chapter 90 (The Controlled Substances Act); however, an agent may perform any law enforcement duty assigned by the Secretary of Crime Control and Public Safety or the Governor.

(c) Territorial Jurisdiction. An alcohol law enforcement agent is a State officer with jurisdiction throughout the State.

(d) Service of Commission Orders. Alcohol law enforcement agents may serve and execute notices, orders, or demands issued by the Commission for the surrender of permits or relating to any administrative proceeding. While serving and executing such notices, orders, or demands, alcohol law enforcement agents shall have all the power and authority possessed by law enforcement officers when executing an arrest warrant.

(e) Discharge. Alcohol law enforcement agents are subject to the discharge provisions of G.S. 18B-202.

“§ 18B-501. Local ABC officers.—(a) Appointment. Except as provided in subsection (f), each local board shall hire one or more ABC enforcement officers. The local board may designate one officer as the chief ABC officer for that board.

(b) Subject Matter Jurisdiction. After taking the oath prescribed for a peace officer, a local ABC officer may arrest and take other investigatory and enforcement actions for any criminal offense; however, the primary responsibility of a local ABC officer is enforcement of the ABC laws and Article 5 of Chapter 90 (The Controlled Substances Act).

(c) Territorial Jurisdiction. A local ABC officer has jurisdiction anywhere in the county in which he is employed except that a city ABC officer’s territorial jurisdiction is subject to any limitation included in any local act governing that city ABC system. A local ABC officer may pursue outside his normal territorial jurisdiction anyone who commits an offense within that jurisdiction, as provided in G.S. 15A-402(d).

(d) Assisting Other Local Agencies. The local ABC officers employed by a local board shall constitute a ‘law enforcement agency’ for purposes of G.S. 160A-288, and a local board shall have the same authority as a city or county governing body to approve cooperation between law enforcement agencies under that section.

(e) Assisting State and Federal Enforcement. A local ABC officer may assist State and federal law enforcement agencies in the investigation of criminal offenses in North Carolina, under the following conditions:
(1) The local board employing the officer has adopted a resolution approving such assistance and stating the conditions under which it may be provided;

(2) The State or federal agency has made a written request for assistance from that local board, either for a particular investigation or for any investigation that might require assistance within a certain period of time;

(3) The local ABC officer is supervised by someone in the requesting agency; and

(4) As soon as practical after the assistance begins, an acknowledgement of the action is placed in the records of the local board.

A local ABC officer shall have territorial jurisdiction throughout North Carolina while assisting a State or federal agency under this section. While providing that assistance the officer shall continue to be considered an employee of the local board for purposes of salary, worker’s compensation, and other benefits, unless a different arrangement is negotiated between the local board and the requesting agency.

(f) Contracts with Other Agencies. Instead of hiring local ABC officers, a local board may contract to pay its enforcement funds to a sheriff’s department, city police department, or other local law enforcement agency for enforcement of the ABC laws within the agency’s territorial jurisdiction. Enforcement agreements may be made with more than one agency at the same time. When such a contract for enforcement exists, the officers of the contracting law enforcement agency shall have the same authority to inspect under G.S. 18B-502 that an ABC officer employed by that local board would have.

(g) Discharge. Local ABC officers are subject to the discharge provisions of G.S. 18B-202.

"§ 18B-502. Inspection of licensed premises.—(a) Authority. To procure evidence of violations of the ABC law, alcohol law enforcement agents, employees of the Commission, local ABC officers, and officers of local law enforcement agencies that have contracted to provide ABC enforcement under G.S. 18B-501(f) shall have authority to investigate the operation of each licensed premises for which an ABC permit has been issued, to make inspections that include viewing the entire premises, and to examine the books and records of the permittee. The inspection authorized by this section may be made at any time it reasonably appears that someone is on the premises.

(b) Interference with Inspection. Refusal by a permittee or by any employee of a permittee to permit officers to enter the premises to make an inspection authorized by subsection (a) shall be cause for revocation, suspension or other action against the permit of the permittee as provided in G.S. 18B-104. It shall be a misdemeanor punishable by a fine of up to five hundred dollars ($500.00), imprisonment for up to six months, or both, for any person to resist or obstruct an officer attempting to make a lawful inspection under this section.

"§ 18B-503. Disposition of seized alcoholic beverages.—(a) Storage. A law enforcement officer who seizes alcoholic beverages as evidence of an ABC law violation shall provide for the storage of those alcoholic beverages until the commencement of the trial or administrative hearing relating to the violation, unless some other disposition is authorized under this section.
(b) Disposition Before Trial. After giving notice to each defendant, to any other known owner, and to the Commission, a judge may make the following dispositions of alcoholic beverages seized as evidence of an ABC law violation:

1. He shall order the destruction of any malt beverages except that amount needed for evidence at trial.
2. He may order the sale of any alcoholic beverages other than malt beverages or nontaxpaid alcoholic beverages, and other than any alcoholic beverages needed for evidence at trial, if the trial is likely to be delayed for more than 90 days, or if the quantity or nature of the alcoholic beverages is such that storage is impractical or unduly expensive.
3. He may order destruction of the alcoholic beverages if storage or sale is not practical.
4. He may order continued storage of the alcoholic beverages.

(c) Disposition After Trial. After the criminal charge is resolved, a judge may order the following dispositions of seized alcoholic beverages:

1. If the owner or possessor of the alcoholic beverages is found guilty of a criminal charge relating to those alcoholic beverages, the judge may order the sale or destruction of any alcoholic beverages that were held until trial.
2. If the owner or possessor of the alcoholic beverages is found not guilty, or if charges are dismissed or otherwise resolved in his favor, the judge shall order the alcoholic beverages returned to that owner or possessor, except as provided in subdivision (3).
3. If the owner or possessor of the alcoholic beverages is found not guilty, or if charges are otherwise resolved in his favor, but possession of the alcoholic beverages by him would be unlawful, the judge shall order the alcoholic beverages either sold or destroyed.
4. If ownership of the alcoholic beverages remains uncertain after trial or after the charges have been dismissed, the judge may order the alcoholic beverages held, or the alcoholic beverages sold and the proceeds held, for a specified time, until ownership of the alcoholic beverages can be determined.

(d) Holding for Administrative Hearings. If alcoholic beverages used as evidence in a criminal proceeding are also needed as evidence at an administrative hearing, a judge shall not order any of the dispositions set out in subsection (c), but shall order the alcoholic beverages held for the administrative hearing and for a determination of final disposition by the Commission or one of its hearing officers. A hearing officer for the Commission may, before or after an administrative hearing, order any of the dispositions authorized under subsections (b) and (c). If no related criminal proceeding has commenced, the Commission or its hearing officers shall not order sale or destruction of alcoholic beverages until notice has been given to the district attorney for the district where the alcoholic beverages were seized or any violation of ABC laws related to the seizure of the alcoholic beverages is likely to be prosecuted.

(e) Sale Procedure. The sale of unfortified wine or fortified wine shall be by public auction unless those wines would likely become spoiled or lose value in the time required to arrange a public auction. If spoilage or loss of value is likely, the judge or hearing officer ordering the sale may authorize sale at the
prevailing wholesale price, as determined by the Commission, to one or more persons holding the appropriate retail wine permits in the county in which the wine was seized, or in a neighboring county if there are no such persons in the county in which the wine was seized. Spirituous liquor may be sold only to the local ABC board serving the city or county in which the liquor was seized, or, if there is no local board for that city or county, to the nearest local board. The sale price shall be at least ten percent (10%) less than the price the local board would pay for the same liquor bought through the State warehouse.

(f) Sale Proceeds. An agency selling alcoholic beverages seized under the provisions of this Chapter shall keep the proceeds in a separate account until some other disposition is ordered by a judge or a Commission hearing officer. If, in a criminal proceeding, the owner or possessor of the alcoholic beverages is found guilty of a violation relating to seizure of the alcoholic beverages, or if he is found not guilty, or if the charge is dismissed or otherwise resolved in his favor, but the possession of the alcoholic beverages by him would be unlawful, or if the ownership of the alcoholic beverages cannot be determined, the proceeds from the sale of those alcoholic beverages shall be paid to the school fund of the county in which the alcoholic beverages were seized. If the owner or possessor of alcoholic beverages seized for violation of the ABC laws is found not guilty of criminal charges relating to the seizure of those beverages, or if the charge is dismissed or otherwise resolved in his favor, and if possession of the alcoholic beverages by him was lawful when the beverages were seized, the proceeds from the sale of those alcoholic beverages shall be paid to him. The agency making the sale may deduct and retain from the amount to be placed in the county school fund the costs of storing the seized alcoholic beverages and of conducting the sale, but may not deduct those costs from the amount to be turned over to an owner or possessor of the alcoholic beverages.

(g) Court Action by Owner. Any person who has any of the following claims resulting from the seizure of alcoholic beverages may bring an action in the superior court of the county in which the alcoholic beverages were seized:

(1) Alcoholic beverages owned by him are wrongfully held;
(2) Alcoholic beverages owned by him are needed as evidence in another proceeding;
(3) He is entitled to proceeds from a sale of seized alcoholic beverages;
(4) He is entitled to restitution for alcoholic beverages wrongfully destroyed.

§ 18B-504. Forfeiture.—(a) Property Subject to Forfeiture. The following kinds of property shall be subject to forfeiture:

(1) Motor vehicles, boats, airplanes, and all other conveyances used to transport nontaxpaid alcoholic beverages in violation of the ABC laws;
(2) Containers for alcoholic beverages which are manufactured, possessed, sold, or transported in violation of the ABC laws; and
(3) Equipment or ingredients used in the manufacture of alcoholic beverages in violation of the ABC laws.

(b) Exemption for Forfeiture. Property which may be possessed lawfully shall not be subject to forfeiture when it was used unlawfully by someone other than the owner of the property and the owner did not consent to the unlawful use.

(c) Seizure of Property. If property subject to forfeiture has not already been seized as part of an arrest or search, a law enforcement officer may apply to a judge for an order authorizing seizure of that property. An order for seizure may
be issued only after criminal process has been issued for an ABC law violation in connection with that property. The order shall describe the property to be seized and shall state the facts establishing probable cause to believe that the property is subject to forfeiture.

(d) Custody until Trial. A law enforcement officer seizing property subject to forfeiture shall provide for its safe storage until trial. If the officer having custody of the property is satisfied that it will be returned at the time of trial, he may return the property to the owner upon receiving a bond for the value of the property, signed by sufficient sureties. If the property is not returned at the time of trial, the full amount of the bond shall be forfeited to the court. Property which it is unlawful to possess may not be returned to the owner.

(e) Disposition after Trial. The presiding judge in a criminal proceeding for violation of ABC laws may take the following actions after resolution of a charge against the owner or possessor of property subject to forfeiture under this section:

(1) If the owner or possessor of the property is found guilty of an ABC offense, the judge may order the property forfeited.

(2) If the owner or possessor of the property is found not guilty, or if the charge is dismissed or otherwise resolved in his favor, the judge shall order the property returned to the owner or possessor.

(3) If ownership of the property remains uncertain after trial, the judge may order the property held for a specified time to determine ownership. If the judge finds that ownership cannot be determined with reasonable effort, he shall order the property forfeited.

(4) Regardless of the disposition of the charge, if the property is something that may not be possessed lawfully, the judge shall order it forfeited.

(5) If the property is also needed as evidence at an administrative hearing, the judge shall provide that his order does not go into effect until the Commission or one of its hearing officers determines that the property is no longer needed for the administrative proceeding.

(f) Disposition of Forfeited Property. A judge ordering forfeiture of property may order any one of the following dispositions:

(1) Sale at public auction;

(2) Sale at auction after notice to certain named individuals or groups, if only a limited number of people would have use for that property;

(3) Delivery to a named State or local law enforcement agency, if the property is not suited for sale, with preference to be given in the following order, to: the agency that seized the property, the ALE Division, the Commission, the local board of the jurisdiction in which the property was seized, and the Department of Justice; or

(4) Destruction, if possession of the property would be unlawful and it could not be used or is not wanted for law enforcement, or if sale or other disposition is not practical.

(g) Proceeds of Sale. If forfeited property is sold, the proceeds of that sale shall be paid to the school fund of the county in which the property was seized, except as provided in subsection (h). Before placing the proceeds in the school fund the agency making the sale may deduct and retain the costs of storing the property and conducting the sale.

(h) Innocent Parties. At any time before forfeiture is ordered, an owner of seized property or a holder of a security interest in seized property, other than
the defendant, may apply to protect his interest in the property. The application may be made to any judge who has jurisdiction to try the offense with which the property is associated. If the judge finds that the property owner or holder of a security interest did not consent to the unlawful use of the property, and that the property may be possessed lawfully by the owner or holder, the judge may order:

1. That the property be returned to the owner, if it is not needed as evidence at trial;
2. That the property be returned to the owner following trial or other resolution of the case; or
3. That, if the property is sold following trial, a specified sum be paid from the proceeds of that sale to the holder of the security interest.

(i) Defendant Unavailable. When property is seized for forfeiture, but the owner is unknown, the district attorney may seek forfeiture under this section by an action in rem against the property. If the owner is known and has been charged with an offense, but is unavailable for trial, the district attorney may seek forfeiture either by an action in rem against the property or by motion in the criminal action.

(j) When No Charge is Made. Any owner of property seized for forfeiture may apply to a judge to have the property returned to him if no criminal charge has been made in connection with that property within a reasonable time after seizure. The judge may not order the return of the property if possession by the owner would be unlawful.

"§ 18B-505. Restitution.—When a person is convicted of a violation of the ABC laws, the court may order him to make restitution to any law enforcement agency for reasonable expenditures made in purchasing alcoholic beverages from him or his agent as part of an investigation leading to his conviction.

"ARTICLE 6.

"Elections.

"§ 18B-600. Places eligible to hold alcoholic beverage elections.—(a) Kinds of Elections. The following kinds of alcoholic beverage elections shall be permitted:

1. Malt beverage;
2. Unfortified wine;
3. ABC store; and
4. Mixed beverage.

(b) County Elections. Any county may hold a malt beverage, unfortified wine, or ABC store election. A county may hold a mixed beverage election only if the county already operates at least one county ABC store or a county election on ABC stores is to be held at the same time as the mixed beverage election.

(c) City Malt Beverage and Unfortified Wine Elections. A city may hold a malt beverage or unfortified wine election only if:

1. The city has a population of 500 or more, the county in which the city is located has already held such an election, and the vote in the last county election was against the sale of that kind of alcoholic beverage; or
2. The city operates an ABC store.

(d) City ABC Store Elections. A city may hold an ABC store election only if:

1. The city has a population of 500 or more; and
2. The county in which the city is located does not operate ABC stores.
(e) City Mixed Beverage Elections. A city may hold a mixed beverage election only if:

(1) The city has a population of 500 or more; and

(2) Either:
   a. The city already operates a city ABC store; or
   b. A city ABC store election is to be held at the same time as the mixed beverage election; or
   c. The city does not operate a city ABC store but:
      1. The county operates an ABC store;
      2. The county has already held a mixed beverage election; and
      3. The vote in the last county election was against the sale of mixed beverages.

“§ 18B-601. Election procedure.—(a) Generally. Except as otherwise provided in this section, an alcoholic beverage election shall be conducted in the same manner and under the same rules as a referendum under Chapter 163.

(b) How County Election Called. A county alcoholic beverage election shall be conducted by the county board of elections. When a county is eligible to hold an election under G.S. 18B-600, the county board of elections shall hold the election upon receiving either:

(1) A written request for an election from the governing body of the county; or

(2) A petition requesting an election signed by at least twenty-five percent (25%) of the voters registered in the county at the time the petition was initiated.

(c) How City Election Called. A city alcoholic beverage election shall be conducted by the county board of elections or, in the case of a city authorized under Chapter 163 to conduct its own elections, by the city board of elections. When a city is eligible to hold an election under G.S. 18B-600, the board of elections shall hold the election upon receiving either:

(1) A written request for an election from the city governing body; or

(2) A petition requesting an election signed by at least twenty-five percent (25%) of the voters registered in the city at the time the petition was initiated.

(d) Form of Request. A request or petition for a malt beverage election shall state which of the four propositions in G.S. 18B-602(a) are to be voted upon. A request or petition for an unfortified wine election shall state which of the three propositions in G.S. 18B-602(d) are to be voted upon. More than one kind of alcoholic beverage election may be included in a single request or petition.

(e) Petitions. A petition for an election shall be on a form provided by the appropriate local board of elections and shall contain the signature, name, address and precinct of each voter who signs. A petition shall be considered initiated at the time the form is delivered by the board of elections to the person who requests it. Within 72 hours after the petition is initiated, the board of elections shall certify the number of registered voters in the city or county at the time it was initiated. The petition shall be returned to the board of elections within 90 days of the time it is initiated. Failure to return the petition within that time shall render it void. The board of elections shall determine the sufficiency of the petition within 30 days after it is returned.

(f) Election Date. The board of elections shall set the date for the alcoholic beverage election, which may not be sooner than 60 days nor later than 120
days from the date the request was received from the governing body or the petition was verified by the board.

(g) Registration. No separate registration shall be required to vote in an alcoholic beverage election. Registration shall be closed for an alcoholic beverage election in the same manner and under the same schedule as for any other election.

(h) Notice. The board of elections shall give notice of an alcoholic beverage election and notice of the close of registration in the same manner and under the same schedule as for any other election.

(i) Observers. The proponents and opponents for an alcoholic beverage election, as determined by the local board of elections, shall have the right to appoint two watchers to attend each voting place. The persons authorized to appoint watchers shall, three days before the election, submit in writing to the registrar of each precinct a signed list of the watchers appointed for that precinct. The persons appointed as watchers shall be registered voters of the precinct for which appointed. The registrar and judges for the precinct may for good cause reject any appointee and require that another be appointed. Watchers shall do no electioneering at the voting place nor in any manner impede the voting process, interfere or communicate with or observe any voter in casting his ballot. Watchers shall be permitted in the voting place to make such observation and to take such notes as they may desire.

§ 18B-602. Form of ballots.—(a) Malt Beverage Elections. Any one or more of the propositions listed below may be placed on the ballot for a malt beverage election. Each voter may vote on each proposition on the ballot. The propositions to be used shall be chosen by the governing body or petitioner requesting the election. The propositions shall read as follows:

(1) To permit the 'on-premises' and 'off-premises' sale of malt beverages.
   □ FOR
   □ AGAINST

(2) To permit the 'on-premises' sale only of malt beverages.
   □ FOR
   □ AGAINST

(3) To permit the 'off-premises' sale only of malt beverages.
   □ FOR
   □ AGAINST

(4) To permit the 'on-premises' sale of malt beverages by Class A hotels, motels, and restaurants only; and to permit 'off-premises' sales by other permittees.
   □ FOR
   □ AGAINST

(b) Determining Results of Malt Beverage Election. The kind of malt beverage sales described in each proposition that receives a majority of votes 'FOR' shall be allowed. If propositions (2) and (4) are both on the ballot and (2) receives a majority of votes 'FOR', then sales shall be permitted according to that proposition regardless of the vote on (4). If one of the propositions receiving a majority of votes 'FOR' is proposition (1), then the kind of sales described in that proposition shall be allowed regardless of the vote on any other proposition at that election.

(c) Subsequent Malt Beverage Elections. A subsequent election in which a majority votes 'AGAINST' malt beverage proposition (1) shall not affect the
legality of sales that have previously been approved under proposition (2), (3), or (4). A subsequent election in which a majority votes 'AGAINST' malt beverage proposition (2) shall not affect the legality of sales that have previously been approved under proposition (4).

(d) Unfortified Wine Elections. Any one or more of the propositions listed below may be placed on the ballot for an unfortified wine election. Each voter may vote on each proposition on the ballot. The propositions to be used shall be chosen by the governing body or petitioner requesting the election. The propositions shall read as follows:

(1) To permit the 'on-premises' and 'off-premises' sale of unfortified wine.
   □ FOR
   □ AGAINST

(2) To permit the 'on-premises' sale only of unfortified wine.
   □ FOR
   □ AGAINST

(3) To permit the 'off-premises' sale only of unfortified wine.
   □ FOR
   □ AGAINST

(e) Determining Results of Unfortified Wine Election. The kind of unfortified wine sales described in each proposition that receives a majority of votes ‘FOR’ shall be allowed. If one of the propositions receiving a majority of votes ‘FOR’ is proposition (1), then the kind of sales described in that proposition shall be allowed, regardless of the vote on any other proposition at that election.

(f) Subsequent Unfortified Wine Election. A subsequent election in which a majority votes 'AGAINST' unfortified wine proposition (1) shall not affect the legality of sales previously approved under proposition (2) or (3).

(g) ABC Store Elections. The ballot for an ABC store election shall state the proposition as follows:

To permit the operation of ABC stores.
   □ FOR
   □ AGAINST

(h) Mixed Beverage Elections. The ballot for a mixed beverage election shall state the proposition as follows:

To permit the sale of mixed beverages in hotels, restaurants, private clubs, and convention centers.
   □ FOR
   □ AGAINST

"§ 18B-603. Effect of alcoholic beverage elections on issuance of permits.—(a) Malt Beverage Elections. If a malt beverage election is held under G.S. 18B-602(a) and the sale of malt beverages is approved, the Commission may issue permits to qualified persons and establishments in the jurisdiction that held the election as follows:

(1) If on-premises sales are approved, the Commission may issue on-premises malt beverage permits.

(2) If off-premises sales are approved, the Commission may issue off-premises malt beverage permits.

(3) If both on-premises and off-premises sales are approved, the Commission may issue both on-premises and off-premises malt beverage permits.
(4) If the kinds of sales described in G.S. 18B-602(a)(4) are approved, the Commission may issue on-premises malt beverage permits to restaurants and hotels only and off-premises malt beverage permits to other permittees.

(b) Unfortified Wine Elections. If an unfortified wine election is held under G.S. 18B-602(d) and the sale of unfortified wine is approved, the Commission may issue permits to qualified persons and establishments in the jurisdiction that held the election as follows:

(1) If on-premises sales are approved, the Commission may issue on-premises unfortified wine permits.
(2) If off-premises sales are approved, the Commission may issue off-premises unfortified wine permits.
(3) If both on-premises and off-premises sales are approved, the Commission may issue both on-premises and off-premises unfortified wine permits.

(c) ABC Store Elections. If an ABC store election is held under G.S. 18B-602(g) and the establishment of ABC stores is approved, each of the following shall be authorized in the jurisdiction that held the election:

(1) The jurisdiction that held the election may establish and operate ABC stores in the manner described in Articles 7 and 8.
(2) The Commission may issue on-premises and off-premises fortified wine and unfortified wine permits to qualified persons and establishments in that jurisdiction, regardless of any unfortified wine election or any local act.
(3) The Commission may issue brown-bagging permits for restaurants and hotels in the county in which the election was held, whether the election was held by the county or by a city or other jurisdiction within the county. Brown-bagging permits shall not be issued, however, for restaurants or hotels in any jurisdiction in which the sale of mixed beverages has been approved.

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

(1) The Commission may issue mixed beverage permits.
(2) The Commission may issue on-premises malt beverage, unfortified wine, and fortified wine permits for establishments with mixed beverage permits, regardless of any other election or any local act concerning sales of those kinds of alcoholic beverages.
(3) The Commission may issue brown-bagging permits for private clubs, but may no longer issue and may not renew brown-bagging permits for restaurants and hotels. A restaurant or hotel shall not be issued a mixed beverage permit under subdivision (1) until it surrenders its brown-bagging permit.
(4) The Commission may continue to issue culinary permits for establishments that do not have mixed beverage permits. An establishment may not be issued a mixed beverage permit under subdivision (1) until it surrenders its culinary permit.

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

(e) Mixed Beverages at Airports. When the sale of mixed beverages has been approved in a city election, the Commission may also issue permits under subsection (d) for qualified establishments outside the city but within the same county, if:

(1) The establishment is on the property of an airport;
(2) The airport is operated by the city or by an airport authority in which the city participates; and
(3) The airport services planes which board at least 150,000 passengers annually.

(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;
(4) Culinary permits, except as restricted by subdivision (d)(4);
(5) Special one-time permits issued under G.S. 18B-1002;
(6) All permits listed in G.S. 18B-1100(a).

(g) Miscellaneous. The definitions in G.S. 18B-1000 shall apply to this section.

§ 18B-604. Timing and effect of subsequent elections.—(a) Time Limits. No county alcoholic beverage election may be held within three years of the certification of the results of a previous election on the same kind of alcoholic beverages in that county. No city alcoholic beverage election may be held within three years of the certification of the results of a previous election on the same kind of alcoholic beverage in that city. Otherwise, alcoholic beverage elections may be held at any time, subject to the applicable provisions of this Chapter and Chapter 163.

(b) Effect of Favorable County Vote on City. If a majority of voters vote in favor of certain alcoholic beverage sales in a county election, sale of that kind of alcoholic beverage shall be lawful throughout the county, regardless of the vote in any city at that or any previous election, and regardless of any local act making sales unlawful in that city, unless the local act was ratified before the effective date of Article II, Section 24(1)(j) of the Constitution of North Carolina. A county malt beverage or unfortified election in favor of a particular ballot proposition which is more restrictive than the form of sale already allowed in a city within that county shall not affect the legality of those previously authorized sales in the city.

(c) Effect of Negative County Vote on City. If a majority of voters vote against certain alcoholic beverage sales in a county election, sale of that kind of alcoholic beverage shall be unlawful throughout the county, except that sale of that alcoholic beverage shall remain lawful in any city in which sale is lawful because of a city election or a local act.

(d) Effect of City Election on County. A city alcoholic beverage election shall not affect the lawfulness of sale in any part of the county outside that city.
(e) ABC Store Required for Mixed Beverages. The sale of mixed beverages may not continue in a city or county at any time after the ABC stores which are requisite to mixed beverage sales have closed.

(f) When Sales Stop. When the sale of any alcoholic beverage that was previously lawful becomes unlawful because of an election, the sale of that alcoholic beverage shall cease 90 days after certification of the results of the election.

"§ 18B-605. Local act elections.—If a jurisdiction has voted in favor of ABC stores or in favor of the sale of some kind of alcoholic beverage, pursuant to a local act enacted before the effective date of this Chapter, and the jurisdiction would not be eligible to hold another election under the conditions set by G.S. 18B-600, then that jurisdiction may hold subsequent elections under the terms of the applicable local act. Except for the authority to hold the election, however, the procedures of this Chapter shall apply to any subsequent election.

"ARTICLE 7.

"Local ABC Boards.

"§ 18B-700. Appointment and organization of local ABC boards.—(a) Membership. A local ABC board shall consist of three members appointed for three-year terms, unless a different membership or term is provided by a local act enacted before the effective date of this Chapter. One member of the initial board of a newly created ABC system shall be appointed for a three-year term, one member for a two-year term, and one member for a one-year term. As the terms of initial board members expire, their successors shall each be appointed for three-year terms. The appointing authority shall designate one member of the local board as chairman.

(b) City Boards. City ABC board members shall be appointed by the city governing body, unless a different method of appointment is provided in a local act enacted before the effective date of this Chapter.

(c) County Boards. County ABC board members shall be appointed by the board of county commissioners, unless a different method of appointment is provided in a local act enacted before the effective date of this Chapter.

(d) Qualifications. The appointing authority shall appoint members of a local board on the basis of the appointees’ interest in public affairs, good judgment, knowledge, ability, and good moral character.

(e) Vacancy. A vacancy on a local board shall be filled by the appointing authority for the remainder of the unexpired term. If the chairman’s seat becomes vacant, the appointing authority may designate either the new member or an existing member of the local board to complete the chairman’s term.

(f) Removal. A member of a local board may be removed for cause at any time by the appointing authority. Local board members are subject to the removal provisions of G.S. 18B-202.

(g) Salary. A local board member may be compensated as determined by the appointing authority.

(h) Conflict of Interest. The provisions of G.S. 18B-201 shall apply to local board members and employees.

(i) Bond. Before taking office, a local board member shall deposit with the Commission a bond of five thousand dollars ($5,000), secured by a corporate surety, for the faithful performance of his duties. The bond shall be payable to the State of North Carolina and to the city or county for which the local board
is established and shall be approved by the Commission and by the authority appointing the local board member. The appointing authority may exempt from this bond requirement any board member who does not handle board funds, and it may also increase the amount of the bond for any member who does handle board funds.

"§ 18B-701. Powers of local ABC boards.—A local board shall have authority to:

1. Buy, sell, transport, and possess alcoholic beverages as necessary for the operation of its ABC stores;
2. Adopt rules for its ABC system, subject to the approval of the Commission;
3. Hire and fire employees for the ABC system;
4. Designate one employee as manager of the ABC system and determine his responsibilities;
5. Require bonds of employees as provided in the rules of the Commission;
6. Operate ABC stores as provided in Article 8;
7. Issue purchase transportation permits as provided in Article 4;
8. Employ local ABC officers or make other provision for enforcement of ABC laws as provided in Article 5;
9. Borrow money as provided in G.S. 18B-702;
10. Buy and lease real and personal property, and receive property bequeathed or given, as necessary for the operation of the ABC system;
11. Invest surplus funds as provided in G.S. 18B-702;
12. Dispose of property in the same manner as a city council may under Article 12 of Chapter 160A of the General Statutes; and
13. Perform any other activity authorized or required by the ABC law.

"§ 18B-702. Financial operations of local boards.—(a) Generally. A local board may transact business as a corporate body, except as limited by this section. A local board shall not be considered a public authority under G.S. 159-7(b)(10).

(b) Borrowing Money. A local board may borrow money only for the purchase of land, buildings, equipment and stock needed for the operation of its ABC system. A local board may pledge a security interest in any real or personal property it owns other than alcoholic beverages. A city or county whose governing body appoints a local board shall not in any way be held responsible for the debts of that board.

(c) Audits. A local board shall submit to the Commission an annual independent audit of its operations, performed in accordance with generally accepted accounting standards and in compliance with a chart of accounts prescribed by the Commission. The audit report shall contain a summary of the requirements of this Chapter, or of any local act applicable to that local board, concerning the distribution of profits of that board and a description of how those distributions have been made, including the names of recipients of the profits and the activities for which the funds were distributed. A local board shall also submit to any other audits and submit any reports demanded by the Commission.

(d) Deposits and Investments. A local board may deposit moneys at interest in any bank or trust company in this State in the form of savings accounts or certificates of deposit. Investment deposits shall be secured as provided in G.S. 159-31(b) and the reports required by G.S. 159-33 shall be submitted. A local board may invest all or part of the cash balance of any fund as provided in G.S.
159-30(c), and may deposit any portion of those funds for investment with the State Treasurer in the same manner as State boards and commissions under G.S. 147-69.3.

(e) Compliance with Commission Rules. The Commission shall adopt, and each local board shall comply with, fiscal control rules concerning the borrowing of money, maintenance of working capital, investments, appointment of a financial officer, daily deposit of funds, bonding of employees, auditing of operations, and the schedule, manner and other procedures for distribution of profits. The Commission may also adopt any other rules concerning the financial operations of local boards which are needed to assure the proper accountability of public funds.

"§ 18B-703. Merger of local ABC operations.—(a) Conditions for Merger. Any city governing body or board of county commissioners may merge its ABC system with the system of one or more other cities or counties if:

(1) Stores operated by the systems of those jurisdictions serve the same general area or are in close proximity to each other; and

(2) The merger is approved by the Commission.

(b) Appointment of Board. Upon merger of ABC systems, the local boards for those systems shall be replaced by one board appointed jointly by the appointing authorities for the previous boards.

(c) Distribution of Profits. Before merger, the cities or counties involved shall agree upon a formula for distribution of the profits of the new merged ABC system, based as closely as practicable on the distribution previously authorized for the separate systems. This formula for distribution shall be subject to approval by the Commission.

(d) Enforcement. Local officers hired by the local ABC board for the merged ABC system shall have the same territorial jurisdiction that officers for each of the merged boards would have.

(e) Dissolution. With the approval of the Commission, the cities or counties that have merged their ABC systems may dissolve the merged operation at any time and resume their prior separate operations.

(f) Other Details Negotiated. Issues not addressed in this section concerning the merger or dissolution of ABC systems, such as the method of appointment of the merged board or the procedure for dissolution, may be negotiated by the affected cities and counties, subject to the approval of the Commission.

(g) Operation Follows General Law. Except as otherwise provided in this section, the authority and operation of any local board established under this section shall be the same as for any other local board.

"ARTICLE 8.

"Operation of ABC Stores.

"§ 18B-800. Sale of alcoholic beverages in ABC stores.—(a) Spirituous Liquor. Except as provided in Article 10 of this Chapter, spirituous liquor may be sold only in ABC stores operated by local boards.

(b) Other Alcoholic Beverages. In addition to spirituous liquor, ABC stores may sell the following:

(1) Fortified wine, and

(2) Unfortified wine derived principally from fruits or berries grown in North Carolina.

(c) Commission Approval. No ABC store may sell any alcoholic beverage which has not been approved by the Commission for sale in this State.
"§ 18B-801. Location, opening, and closing of stores.—(a) Number of Stores. Each local board shall have the authority and duty to operate one ABC store. Additional stores may be operated with the approval of the Commission.

(b) Location of Stores. A local board may choose the location of the ABC stores within its jurisdiction, subject to the approval of the Commission. In making its decision on a location, the Commission may consider:

(1) Whether the health, safety, or general welfare of the community will be adversely affected; and

(2) Whether the citizens of the community or city in which the proposed store is to be located voted for or against ABC stores in the last election on the question.

(c) Closing of Stores. Subject to the provisions of subsection (a), a local board may close, or the Commission may order a local board to close, any store when the local board or the Commission determines that:

(1) The operation of the store is not sufficiently profitable to justify its continuation;

(2) The store is not operated in accordance with the ABC law; or

(3) The continued operation of that store will adversely affect the health, safety, or general welfare of the community in which the store operates.

"§ 18B-802. When stores operate.—(a) Time. No ABC store shall be open, and no ABC store employee shall sell alcoholic beverages, between 9:00 p.m. and 9:00 a.m. The local board shall otherwise determine opening and closing hours of its stores.

(b) Days. No ABC store shall be open, and no ABC store employee shall sell alcoholic beverages, on any Sunday, New Year's Day, Fourth of July, Labor Day, Thanksgiving Day, or Christmas Day. A local board may otherwise determine the days on which its stores shall be closed.

"§ 18B-803. Store management.—(a) Manager. A local board shall provide for the management of each store operated by it. The board shall employ at least one manager for each store, who shall operate the store pursuant to the directions of that board.

(b) Bonding of Manager. As a prerequisite to employment, each manager shall deposit with the local board a bond in an amount fixed by the board, secured by a corporate surety, for the faithful performance of his duties. The bond shall be payable to the State of North Carolina and to the city or county for which the local board is established and shall be approved by the Commission.

(c) Bonding of Other Employees. A local board may require any of its other employees who handle board funds to obtain bonds in the manner prescribed in subsection (b).

"§ 18B-804. Alcoholic beverage pricing.—(a) Uniform Price of Spirituous Liquor. The retail price of spirituous liquor sold in ABC stores shall be uniform throughout the State, unless otherwise provided by the ABC law.

(b) Sale Price of Spirituous Liquor. The sale price of spirituous liquor shall consist of the following components:

(1) The distiller's price;

(2) The freight and bailment charges of the State warehouse as determined by the Commission;

(3) A markup for local boards as determined by the Commission;

(4) The tax levied under G.S. 105-113.93, which shall be levied on the sum of subdivisions (1), (2) and (3);
(5) An additional markup for local boards equal to three and one-half percent (3 1/2%) of the sum of subdivisions (1), (2) and (3);

(6) A bottle charge of one cent (1¢) on each bottle containing fifty milliliters or less and five cents (5¢) on each bottle containing more than fifty milliliters;

(7) A rounding adjustment, the formula of which may be determined by the Commission, so that the sale price will be divisible by five; and

(8) If the spirituous liquor is sold to a mixed beverage permittee for resale in mixed beverages, a charge of ten dollars ($10.00) on each four liters and a proportional sum on lesser quantities.

(c) Sale Price of Fortified Wine. The sale price of fortified wine shall include the tax levied by G.S. 105-113.95, as well as State and local sales taxes.

(d) Sale Price of Unfortified Wine. The sale price of unfortified wine shall include the tax levied by G.S. 105-113.86, as well as State and local sales taxes.

§ 18B-805. Distribution of revenue.—(a) Gross Receipts. As used in this section, 'gross receipts' means all revenue of a local board, including proceeds from the sale of alcoholic beverages, investments, interest on deposits, and any other source.

(b) Primary Distribution. Before making any other distribution, a local board shall first pay the following from its gross receipts:

(1) The board shall pay the expenses, including salaries, of operating the local ABC system.

(2) Each month the local board shall pay to the Department of Revenue the taxes due the Department.

(3) Each month the local board shall pay to the Department of Human Resources ten percent (10%) of the mixed beverages surcharge required by G.S. 18B-804(b)(8). The Department of Human Resources shall spend those funds for treatment of alcoholism or for research or education on alcohol abuse.

(4) Each month the local board shall pay to the county commissioners of the county where the charge is collected the proceeds from the bottle charge required by G.S. 18B-804(b)(6), to be spent by the county commissioners for the purposes stated in subsection (h) of this section.

(c) Other Statutory Distributions. After making the distributions required by subsection (b), a local board shall make the following quarterly distributions from the remaining gross receipts:

(1) Before making any other distribution under this subsection, the local board shall set aside the clear proceeds of the three and one-half percent (3 1/2%) markup provided for in G.S. 18B-804(b)(5), to be distributed as part of the remaining gross receipts under subsection (e) of this section.

(2) The local board shall spend for law enforcement an amount set by the board which shall be at least five percent (5%) of the gross receipts remaining after the distribution required by subdivision (1). Notwithstanding the provisions of any local act, this provision shall apply to all local boards.

(3) The local board shall spend, or pay to the county commissioners to spend, for the purposes stated in subsection (h), an amount set by the board which shall be at least seven percent (7%) of the gross receipts remaining after the distribution required by subdivision (1). This
provision shall not be applicable to a local board which is subject to a local act setting a different distribution.

(d) Working Capital. After making the distributions provided for in subsections (b) and (c), the local board may set aside a portion of the remaining gross receipts, within the limits set by the rules of the Commission, as cash to operate the ABC system. With the approval of the appointing authority for the board, the local board may also set aside a portion of the remaining gross receipts as a fund for specific capital improvements.

(e) Other Distributions. After making the distributions provided in subsections (b), (c), and (d), the local board shall pay each quarter the remaining gross receipts to the general fund of the city or county for which the board is established, unless some other distribution or some other schedule is provided for by law. If the governing body of each city and county receiving revenue from an ABC system agrees, and if the Commission approves, those governing bodies may alter at any time the distribution to be made under this subsection. If any one of the governing bodies later withdraws its consent to the change in distribution, profits shall be distributed according to the original formula, beginning with the next quarter.

(f) Mixed Beverage Profit from Airport. When spirituous liquor is bought at a city ABC store by a mixed beverage permittee for premises located at an airport outside the city, the ninety percent (90%) local share of the mixed beverages surcharge required by G.S. 18B-804(a)(8) shall be divided equally among the local ABC boards of all cities in the county that have authorized the sale of mixed beverages.

(g) Quarterly Distributions. When this section requires a distribution to be made quarterly, at least ninety percent (90%) of the estimated distribution shall be paid to the recipient by the local board within 30 days of the end of that quarter. Adjustments in the amount to be distributed resulting from the closing of the books and from audit shall be made with the next quarterly payment.

(h) Expenditure of Alcoholism Funds. Funds distributed under subdivisions (b)(4) and (c)(3) of this section shall be spent for treatment of alcoholism, or for research or education on alcohol abuse. The minutes of the board of county commissioners or local board spending funds allocated under this subsection shall describe the activity for which the funds are to be spent. Any agency or person receiving funds from the county commissioners or local board under this subsection shall submit an annual report to the board of county commissioners or local board from which funds were received, describing how the funds were spent.

§ 18B-806. Damaged alcoholic beverages.—(a) Owned by Local Board. All damaged alcoholic beverages owned by a local board shall be destroyed, given to a public or private hospital for medicinal use only, or given to the Commission.

(b) Not Owned by Local Board. The Commission shall dispose of all damaged alcoholic beverages which are:

1. Owned by the Commission;
2. Damaged while in the State warehouse; or
3. Damaged while in transit between the State warehouse and a local board.

The Commission shall dispose of the alcoholic beverages by giving them to a public or private hospital for medicinal use only, by selling them to a military installation, or by destroying them.
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(c) Sale Procedure. If damaged alcoholic beverages are sold under subsection (b), sale shall be by:
   (1) Advertisement for sealed bids;
   (2) Negotiated offer, advertisement and upset bids; or
   (3) Exchange.
   Funds derived from the sale of damaged alcoholic beverages shall be paid to the General Fund of the State.

(d) Records. Local boards and the Commission shall keep detailed records of all disposals of damaged alcoholic beverages, including brand, quantity and disposition.

“§ 18B-807. Rules.—The Commission may adopt rules concerning the organization and operation of self-service ABC stores, the size of ABC store signs, the display of alcoholic beverages, solicitation in and around ABC stores, and any other subject relating to the efficient operation of ABC stores.

“ARTICLE 9.

“Issuance of Permits.

“§ 18B-900. Qualifications for permit.—(a) Requirements. To be eligible to receive and to hold an ABC permit, a person shall:
   (1) Be at least 21 years old, unless the person is a manager of a business selling only malt beverages and unfortified wine, in which case the person shall be at least 18 years old;
   (2) Be a resident of North Carolina unless:
      a. He is an officer, director or stockholder of a corporate applicant or permittee and is not a manager or otherwise responsible for the day-to-day operation of the business; or
      b. He has executed a power of attorney designating a qualified resident of this State to serve as attorney in fact for the purposes of receiving service of process and managing the business for which permits are sought; or
      c. He is exempted from this requirement by the Commission;
   (3) Not have been convicted of a felony within three years, and, if convicted of a felony before then, shall have had his citizenship restored;
   (4) Not have been convicted of an alcoholic beverage offense within two years;
   (5) Not have been convicted of a misdemeanor controlled substance offense within two years; and
   (6) Not have had an alcoholic beverage permit revoked within three years.

(b) Definition of Conviction. A person has been 'convicted' for the purposes of subsection (a) when he has been found guilty, or has entered a plea of guilty or nolo contendere, and judgment has been entered against him. A felony conviction in another jurisdiction shall disqualify a person from being eligible to receive or hold an ABC permit if his conduct would also constitute a felony in North Carolina. A conviction of an alcoholic beverage offense or misdemeanor drug offense in another jurisdiction shall disqualify a person from being eligible to receive or hold an ABC permit if his conduct would constitute an offense in North Carolina, unless the Commission determines that under North Carolina procedure judgment would not have been entered under the same circumstances. Revocation of a permit in another jurisdiction shall disqualify a person if his conduct would be grounds for revocation in North Carolina.
(c) Who Must Qualify; Exceptions. For an ABC permit to be issued to and held for a business, each of the following persons associated with that business must qualify under subsection (a):

(1) The owner of a sole proprietorship;
(2) Each member of a firm, association or partnership;
(3) Each officer, director and owner of more than twenty-five percent (25%) of the stock of a corporation;
(4) The manager of an establishment operated by a corporation other than an establishment with only off-premises malt beverage, off-premises unfortified wine, or off-premises fortified wine permits;
(5) Any manager who has been empowered as attorney in fact for a nonresident individual or partnership.

(d) Manager of Off-Premises Establishment. Although he need not otherwise meet the requirements of this section, the manager of an establishment operated by a corporation and holding off-premises permits for malt beverages, unfortified wine, or fortified wine shall be at least 18 years old.

(e) Convention Centers. With the approval of the Commission, the manager of a convention center may contract with another person to provide food and beverages at conventions and banquets at the convention center, and that person may engage in the activities authorized by the convention center’s permit, under conditions set by the Commission. The person with whom the convention center contracts must meet the qualifications of this section.

"§ 18B-901. Issuance of permits.—(a) Who Issues. All ABC permits shall be issued by the Commission. Purchase-transportation permits shall be issued by local boards under G.S. 18B-403.

(b) Notice to Local Government. Before issuing an ABC permit, for an establishment, the Commission shall give notice of the permit application to the governing body of the city in which the establishment is located. If the establishment is not inside a city, the Commission shall give notice to the governing body of the county. The Commission shall allow the local governing body 10 days from the time the notice was mailed or delivered to file written objection to the issuance of the permit. To be considered by the Commission, the objection shall state the facts upon which it is based.

(c) Factors in Issuing Permit. Before issuing a permit, the Commission shall be satisfied that the applicant is a suitable person to hold an ABC permit and that the location is a suitable place to hold the permit for which he has applied. To be a suitable place, the establishment shall comply with all applicable building and fire codes. Other factors the Commission may consider in determining whether the applicant and the business location are suitable are:

(1) The reputation, character, and criminal record of the applicant;
(2) The number of places already holding ABC permits within the neighborhood;
(3) Parking facilities and traffic conditions in the neighborhood;
(4) Kinds of businesses already in the neighborhood;
(5) Whether the establishment is located within 50 feet of a church or public school or church school;
(6) Zoning laws;
(7) The recommendations of the local governing body; and
(8) Any other evidence that would tend to show whether the applicant would comply with the ABC laws and whether operation of his business at that location would be detrimental to the neighborhood.

(d) Commission's Authority. The Commission shall have the sole power, in its discretion, to determine the suitability and qualifications of an applicant for a permit.

"§ 18B-902. Application for permit; fees.—(a) Form. An application for an ABC permit shall be on a form prescribed by the Commission and shall be notarized. The application shall be signed and sworn to by each person required to qualify under G.S. 18B-900(c).

(b) Investigation. Before issuing a new permit, the Commission, with the assistance of the ALE Division, shall investigate the applicant and the premises for which the permit is requested. The Commission may request the assistance of local ABC officers in investigating applications. An applicant shall cooperate fully with the investigation.

(c) False Information. Knowingly making a false statement in an application for an ABC permit shall be grounds for denying, suspending, revoking or taking other action against the permit as provided in G.S. 18B-104 and shall also be unlawful.

(d) Fees. An application for an ABC permit shall be accompanied by payment of the following application fee:

(1) On-premises malt beverage permit—$100.00.
(2) Off-premises malt beverage permit—$100.00.
(3) On-premises unfortified wine permit—$100.00.
(4) Off-premises unfortified wine permit—$100.00.
(5) On-premises fortified wine permit—$100.00.
(6) Off-premises fortified wine permit—$100.00.
(7) Brown-bagging permit—$200.00, unless the application is for a restaurant seating less than 50, in which case the fee shall be $100.00.

(8) Special occasion permit—$200.00.
(9) Limited special occasion permit—$25.00.
(10) Mixed beverages permit—$500.00.
(11) Culinary permit—$100.00.
(12) Unfortified winery permit—$100.00.
(13) Fortified winery permit—$100.00.
(14) Limited winery permit—$100.00.
(15) Brewery permit—$100.00.
(16) Distillery permit—$100.00.
(17) Fuel alcohol permit—$10.00.
(18) Wine importer permit—$100.00.
(19) Wine wholesaler permit—$100.00.
(20) Malt beverage importer permit—$100.00.
(21) Malt beverage wholesaler permit—$100.00.
(22) Bottler permit—$100.00.
(23) Salesman permit—$25.00.
(24) Any special one-time permit under G.S. 18B-1002—$25.00.

(e) Fee for Combined Applications. If application is made at the same time for retail malt beverage, unfortified wine and fortified wine permits for a single business location, the total fee for those applications shall be one hundred dollars ($100.00). If application is made at the same time for brown-bagging and
special occasion permits for a single business location, the total fee for those applications shall be three hundred dollars ($300.00). If application is made at the same time for wine and malt beverage importer permits, the total fee for those applications shall be one hundred dollars ($100.00). If application is made at the same time for wine and malt beverage wholesaler permits, the total fee for those applications shall be one hundred dollars ($100.00).

(f) Fee Not Refundable. The fee required by subsection (d) shall not be refundable even if the permit is denied or is later suspended or revoked.

(g) Fees to Treasurer. All fees collected by the Commission under this or any other section of this Chapter shall be remitted to the State Treasurer for the General Fund.

"§ 18B-903. Duration of permit; renewal and transfer.—(a) Duration. Once issued, ABC permits shall be valid for the following periods, unless earlier surrendered, suspended or revoked:

1. On-premises and off-premises malt beverage, fortified wine, and fortified wine permits; culinary permits; and all permits listed in G.S. 18B-1100 shall remain valid indefinitely;
2. Limited special occasion permits shall be valid for 48 hours before and after the occasion for which the permit was issued;
3. Special one-time permits issued under G.S. 18B-1002 shall be valid for the period stated on the permit;
4. Temporary permits issued under G.S. 18B-905 shall be valid for 90 days; and
5. All other ABC permits shall be valid for one year, from May 1 to April 30.

(b) Renewal. Application for renewal of an ABC permit shall be on a form provided by the Commission. An application for renewal shall be accompanied by an application fee of twenty-five percent (25%) of the original application fee set in G.S. 18B-902, except that the renewal application fee for a mixed beverages permit shall be fifty percent (50%) of the original fee. A renewal fee shall not be refundable.

(c) Change in Ownership. All permits for an establishment shall automatically expire and shall be surrendered to the Commission if:

1. Ownership of the establishment changes; or
2. There is a change in the membership of the firm, association or partnership owning the establishment, involving the acquisition of a twenty-five percent (25%) or greater share in the firm, association or partnership by someone who did not previously own a twenty-five percent (25%) or greater share; or
3. Twenty-five percent (25%) or more of the stock of the corporate permittee owning the establishment is acquired by someone who did not previously own twenty-five percent (25%) or more of the stock.

(d) Change in Management. A corporation holding a permit for an establishment for which the manager is required to qualify as an applicant under G.S. 18B-900(c) shall, within 30 days after employing a new manager, submit to the Commission an application for substitution of a manager. The application shall be signed by the new manager, shall be on a form provided by the Commission, and shall be accompanied by a fee of ten dollars ($10.00). The fee shall not be refundable.
"§ 18B-904. Miscellaneous provisions concerning permits.—(a) Who Receives Permit. An ABC permit shall be issued to the owner of an establishment and shall authorize the permitted activity only on the premises of the establishment named in the permit.

(b) Posting Permit. Each ABC permit that is held by an establishment shall be posted in a prominent place on the premises.

(c) Business Not Operating. An ABC permit shall automatically expire and shall be surrendered to the Commission if the person to whom it is issued does not commence the activity authorized by the permit within six months of the date the permit is effective. The Commission may waive this provision for good cause.

(d) Notice of Issuance. Upon issuing a permit the Commission shall send notice of the issuance, with the name and address of the permittee and the establishment, to:

(1) The Department of Revenue;
(2) The local board, if one exists, for the city or county in which the establishment is located;
(3) The governing body, sheriff, and tax collector of the county in which the establishment is located;
(4) If the establishment is located inside a city, the governing body, chief of police, and tax collector for the city; and
(5) The ALE Division.

"§ 18B-905. Temporary permits.—When an application has been received in proper form, with the required application fee, the Commission may issue a temporary permit for any of the activities for which permits are authorized under G.S. 18B-1001 and 18B-1100. A temporary permit may be revoked summarily by the Commission without complying with the provisions of Chapter 150A. Revocation of a temporary permit shall be effective upon service of the notice of revocation upon the permittee or upon the expiration of three working days after the notice of the revocation has been mailed to the permittee at either his residence or the address given for the business in the permit application. No further notice shall be required.

"§ 18B-906. Applicability of Administrative Procedure Act.—(a) Act Applies. An ABC permit is a 'license' within the meaning of G.S. 150A-2, and a Commission action on issuance, suspension or revocation of an ABC permit, other than a temporary permit issued under G.S. 18B-905, is a 'contested case' subject to the provisions of Chapter 150A except as provided in subsection (b).

(b) Exception on Hearing Location. Hearings on ABC permits shall be held in Ahoskie, Asheville, Bryson City, Charlotte, Elizabeth City, Fayetteville, Franklin, Goldsboro, Greensboro, Greenville, Hickory, Jacksonvile, Kinston, New Bern, Raleigh, Statesville, Wilmington, and Winston-Salem. Hearings shall be held within 100 miles, as best can be determined by the Commission, of the county seat of the county in which the licensed business or proposed business is located. The hearing may be held, however, at any place upon agreement of the Commission and all other parties.

"ARTICLE 10.
"Retail Activity.

"§ 18B-1000. Definitions concerning establishments.—The following requirements and definitions shall apply to this Chapter:
(1) Restaurant—An establishment substantially engaged in the business of preparing and serving meals. To qualify as a restaurant, an establishment's gross receipts from food and nonalcoholic beverages shall be greater than its gross receipts from alcoholic beverages. A restaurant shall also have a kitchen and an inside dining area with seating for at least 36 people.

(2) Hotel—An establishment substantially engaged in the business of furnishing lodging. A hotel shall have a restaurant either on or closely associated with the premises. The restaurant and hotel need not be owned or operated by the same person.

(3) Eating establishment—An establishment engaged in the business of regularly and customarily selling food, primarily to be eaten on the premises. Eating establishments shall include businesses that are referred to as restaurants, cafeterias, or cales, but that do not qualify under subdivision (1). Eating establishments shall also include lunchstands, grills, snack bars, fast-food businesses, and other establishments, such as drugstores, which have a lunch counter or other section where food is sold to be eaten on the premises.

(4) Food business—An establishment engaged in the business of regularly and customarily selling food, primarily to be eaten off the premises. Food businesses shall include grocery stores, convenience stores, and other establishments, such as variety stores or drugstores, where food is regularly sold, and shall also include establishments engaged primarily in selling unfortified or fortified wine or both, for consumption off the premises.

(5) Retail business—An establishment engaged in any retail business, regardless of whether food is sold on the premises.

(6) Private club—An establishment that is organized and operated solely for a social, recreational, patriotic, or fraternal purpose and that is not open to the general public, but is open only to the members of the organization and their bona fide guests. Except for bona fide religious organizations, no organization that discriminates in the selection of its membership on the basis of religion shall be eligible to receive any permit issued under this Chapter.

(7) Convention center—A publicly owned or operated establishment that is engaged in the business of sponsoring or hosting conventions and similar large gatherings. Convention centers shall include auditoriums, armories, civic centers, convention centers, and coliseums. A permit issued for a convention center shall be valid only for those parts of the building used for conventions and banquets and only during regularly scheduled conventions and banquets.

§ 18B-1001. Kinds of ABC permits; places eligible.—When the issuance of the permit is lawful in the jurisdiction in which the premises is located, the Commission may issue the following kinds of permits:

(1) On-premises Malt Beverage Permit. An on-premises malt beverage permit authorizes the retail sale of malt beverages for consumption on the premises and the retail sale of malt beverages in the manufacturer's original container for consumption off the premises. The permit may be issued for any of the following:
   a. Restaurants;
   b. Hotels;
   c. Eating establishments;
   d. Food businesses;
   e. Retail businesses;
   f. Private clubs;

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g. Convention centers.

(2) Off-premises Malt Beverage Permit. An off-premises malt beverage permit authorizes the retail sale of malt beverages in the manufacturer's original container for consumption off the premises. The permit may be issued for any of the following:
   a. Restaurants;
   b. Hotels;
   c. Eating establishments;
   d. Food businesses;
   e. Retail businesses.

(3) On-premises Unfortified Wine Permit. An on-premises unfortified wine permit authorizes the retail sale of unfortified wine for consumption on the premises, either alone or mixed with other beverages, and the retail sale of unfortified wine in the manufacturer's original container for consumption off the premises. The permit may be issued for any of the following:
   a. Restaurants;
   b. Hotels;
   c. Eating establishments;
   d. Private clubs;
   e. Convention centers.

(4) Off-premises Unfortified Wine Permit. An off-premises unfortified wine permit authorizes the retail sale of unfortified wine in the manufacturer's original container for consumption off the premises. The permit may be issued for food businesses. The permit may also be issued for a winery for sale of its own unfortified wine.

(5) On-premises Fortified Wine Permit. An on-premises fortified wine permit authorizes the retail sale of fortified wine, either alone or mixed with other beverages, for consumption on the premises. The permit may be issued for any of the following:
   a. Restaurants;
   b. Hotels;
   c. Private clubs.

(6) Off-premises Fortified Wine Permit. An off-premises fortified wine permit shall authorize the retail sale of fortified wine in the manufacturer's original container for consumption off the premises. The permit may be issued for food businesses. The permit may also be issued for a winery for sale of its own fortified wine.

(7) Brown-bagging Permit. A brown-bagging permit authorizes each individual patron of a business, with the permission of the permittee, to bring up to four liters of fortified wine or spirituous liquor, or four liters of the two combined, onto the premises and to consume those alcoholic beverages on the premises. The permit may be issued for any of the following:
   a. Restaurants;
   b. Hotels;
   c. Private clubs.

(8) Special Occasion Permit. A special occasion permit authorizes the host of a reception, party or other special occasion, with the permission of the permittee, to bring fortified wine and spirituous liquor onto the premises of the business and to serve the same to his guests. The permit may be issued for any of the following:
a. Restaurants;
b. Hotels;
c. Eating establishments;
d. Private clubs;
e. Convention centers.

(9) Limited Special Occasion Permit. A limited special occasion permit authorizes the permittee to bring fortified wine and spirituous liquor onto the premises of a business, with the permission of the owner of that property, and to serve those alcoholic beverages to the permittee's guests at a reception, party, or other special occasion being held there. The permit may be issued to any individual other than the owner or possessor of the premises. An applicant for a limited special occasion permit shall have the written permission of the owner or possessor of the property on which the special occasion is to be held.

(10) Mixed Beverages Permit. A mixed beverages permit authorizes the retail sale of mixed beverages for consumption on the premises. The permit also authorizes a mixed beverages permittee to obtain a purchase-transportation permit under G.S. 18B-403 and G.S. 18B-404, and to use for culinary purposes spirituous liquor lawfully purchased for use in mixed beverages. The permit may be issued for any of the following:
   a. Restaurants;
b. Hotels;
c. Private clubs;
d. Convention centers.

(11) Culinary Permit. A culinary permit authorizes a permittee to possess up to 12 liters of either fortified wine or spirituous liquor, or 12 liters of the two combined, in the kitchen of a business and to use those alcoholic beverages for culinary purposes. The permit may be issued for either of the following:
   a. Restaurants;
b. Hotels.

A culinary permit may also be issued to a catering service to allow the possession of the amount of fortified wine and spirituous liquor stated above at the business location of that service and at the cooking site. The permit shall also authorize the caterer to transport those alcoholic beverages to and from the business location and the cooking site, and use them in cooking.

"§ 18B-1002. Special one-time permits.—(a) Kinds of Permits. In addition to the other permits authorized by this Chapter, the Commission may issue permits for the following activities:

(1) A permit may be issued to a person who acquires ownership or possession of alcoholic beverages through bankruptcy, inheritance, foreclosure, judicial sale, or other special occurrence, and who does not already have a permit authorizing the sale of that kind of alcoholic beverage. The permit may authorize the sale or other disposition of the alcoholic beverages in a manner prescribed by the Commission.

(2) A permit may be issued to a nonprofit organization to allow the retail sale of malt beverages, unfortified wine, or fortified wine, or to allow brown-bagging, at a single fund-raising event of that organization. A permit for this purpose shall not be issued to the same organization more than once during each quarter, and shall not be issued for the sale of any kind of alcoholic beverage in a jurisdiction where the sale of that alcoholic beverage is not lawful.
(3) A permit may be issued to a permittee who is going out of business to authorize the sale or other disposition of his alcoholic beverages stock in a manner that would not otherwise be authorized under his permit.

(4) A permit may be issued to a collector of wine or decorative decanters of spirituous liquor authorizing that person to bring into the State, transport, or possess as a collector, a greater amount of those alcoholic beverages than is otherwise authorized by this Chapter, or to sell those alcoholic beverages in a manner prescribed by the Commission.

(b) Intent. Permits under this section are to be issued only for the limited circumstances listed in subsection (a) of this section and not as substitutes for other permits required by this Chapter.

(c) Conditions of Permit. A permit issued under this section shall be valid only for the single transaction or the kind of activity specified in the permit and shall be subject to any conditions the Commission may impose as to the time, place and manner of the authorized activity.

(d) Administrative Procedure. Denial or revocation of a permit under this section shall not entitle the applicant or permittee to a hearing under Chapter 150A.

"§ 18B-1003. Responsibilities of permittee.—(a) Premises. For purposes of this Chapter, a permittee shall be responsible for the entire premises for which the permit is issued. The permittee shall keep the premises clean, well-lighted and orderly.

(b) Employees. For purposes of this Chapter, a permittee shall be responsible for the actions of all employees of the business for which the permit is issued. Each holder of a salesman’s permit shall be responsible for all sales and deliveries made by his helpers.

(c) Certain Employees Prohibited. A permittee shall not knowingly employ in the sale or distribution of alcoholic beverages any person who has been:
   (1) Convicted of a felony within three years;
   (2) Convicted of a felony more than three years previously and has not had his citizenship restored;
   (3) Convicted of an alcoholic beverage offense within two years; or
   (4) Convicted of a misdemeanor controlled substances offense within two years.

For purposes of this subsection, ‘conviction’ has the same meaning as in G.S. 18B-900(b). To avoid undue hardship, the Commission may, in its discretion, exempt persons on a case-by-case basis from this subsection.

"§ 18B-1004. Hours for sale and consumption.—(a) Hours. Except as otherwise provided in this section, it shall be unlawful to sell malt beverages, unfortified wine, fortified wine, or mixed beverages between the hours of 1:00 a.m. and 7:00 a.m., or to consume any of those alcoholic beverages between the hours of 1:30 a.m. and 7:00 a.m., in any place which has been issued a permit under G.S. 18B-1001.

(b) Daylight Saving Time. From the last Sunday in April until the last Sunday in October, sales of alcoholic beverages may continue until 2:00 a.m. rather than 1:00 a.m., and consumption of alcoholic beverages may continue until 2:30 a.m. rather than 1:30 a.m., on any licensed premises.

(c) Sunday Hours. It shall be unlawful to sell or consume alcoholic beverages on any licensed premises from the time at which sale or consumption must cease on Sunday morning until 1:00 p.m. on that day.
(d) Local Option. A city may adopt an ordinance prohibiting in the city the retail sale of malt beverages, unfortified wine, and fortified wine during any or all of the hours from 1:00 p.m. on Sunday until 7:00 a.m. on the following Monday. A county may adopt an ordinance prohibiting, in the parts of the county outside any city, the retail sale of malt beverages, unfortified wine, and fortified wine during any or all of the hours from 1:00 p.m. on Sunday until 7:00 a.m. on the following Monday. Neither a city nor a county, however, may prohibit those sales in establishments having brown-bagging or mixed beverages permits.

"§ 18B-1005. Conduct on licensed premises.—(a) Certain Conduct. It shall be unlawful for a permittee to knowingly allow any of the following kinds of conduct to occur on his licensed premises:

(1) Any violation of the ABC laws;
(2) Any fighting or other disorderly conduct that can be prevented without undue danger to the permittee, his employees or patrons;
(3) Any violation of the controlled substances, gambling, or prostitution statutes, or any other unlawful acts;
(4) Any conduct or entertainment by any person whose private parts are exposed or who is wearing transparent clothing that reveals the private parts;
(5) Any entertainment that includes or simulates sexual intercourse or any other sexual act; or
(6) Any other lewd or obscene entertainment or conduct, as defined by the rules of the Commission.

(b) Supervision. It shall be unlawful for a permittee to fail to superintend in person or through a manager the business for which a permit is issued.

"§ 18B-1006. Miscellaneous provisions on permits.—(a) School and College Campuses. No permit for the sale of malt beverages, unfortified wine, or fortified wine shall be issued to a business on the campus or property of a public school or college unless that business is a hotel with a mixed beverages permit.

(b) Lockers at Clubs. A private club which has been issued a brown-bagging permit may, but is not required to, provide lockers for its members to store their alcoholic beverages. If lockers are provided, however, they shall not be shared but shall be for individual members. Each locker and each bottle of alcoholic beverages on the premises shall be labelled with the name of the member to whom it belongs. No more than four liters each of malt beverages or unfortified wine may be stored by a member at one time. No more than four liters of either fortified wine or spirituous liquor, or four liters of the two combined, may be stored by a member at one time.

(c) Wine Sales. Holders of retail or wholesale permits for the sale of unfortified or fortified wine may buy and sell only wines on the Commission’s approved list. The Commission may authorize the importation and purchase of wines not on the approved list by permittees and others. An authorization shall state the kind and amount of wine that may be imported and purchased and the time within which the transaction shall be completed.

(d) Unlawful Possession or Consumption. It shall be unlawful for a permittee to possess or consume, or allow any other person to possess or consume, on the licensed premises, any fortified wine or spirituous liquor, the possession or consumption of which is not authorized either by the permits issued to him for the premises or by any other provision of the ABC law.

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(e) Facsimile Permit. It shall be unlawful for any person to produce or possess any false or facsimile permit, or for a permittee to display any false or facsimile permit on his licensed premises.

(f) Failure to Surrender Permit. It shall be unlawful for any person to refuse to surrender any permit to the Commission upon lawful demand of the Commission or its agents.

§ 18B-1007. Additional requirements for mixed beverages permittees.—(a) Purchases. A mixed beverages permittee may purchase spirituous liquor for resale as mixed beverages only at an ABC store designated by a local board and only with a purchase-transportation permit issued by that local board under G.S. 18B-403 and G.S. 18B-404.

(b) Handling Bottles. It shall be unlawful for a mixed beverages permittee to do any of the following:

(1) Store any other spirituous liquor with liquor possessed for resale in mixed beverages;

(2) Refill any spirituous liquor container having a mixed beverages tax stamp with any other alcoholic beverage, or add to the contents of such a container any other alcoholic beverage;

(3) Transfer from one container to another a mixed beverages tax stamp.

§ 18B-1008. Rules concerning retail permits.—The Commission is authorized to use broad discretion in further defining the kinds of places eligible for permits under this Article. The rules may state the kind and amount of food that shall be sold to qualify in each category, the relationship between food sales and other receipts, the size of the establishment required for each category, the kinds of facilities needed to qualify, the kinds of activities at which alcoholic beverages may not be sold, and any other matters which are necessary to determine which businesses are bona fide establishments of the kinds listed in G.S. 18B-1000. Rules concerning private clubs may also include, but need not be limited to, requirements that the club have a membership committee to review all applications for membership, that the club charge membership dues substantially greater than what would be paid by a one-time or casual user, that the club restrict use by nonmembers, that the club provide facilities or activities other than those directly related to the use of alcoholic beverages, and that the club have a waiting period for membership. A waiting period required by the Commission shall not exceed 30 days.

ARTICLE 11.

Commercial Activity.

§ 18B-1100. Commercial permits.—(a) Types of Permits. The Commission may issue the following commercial permits:

(1) Unfortified winery
(2) Fortified winery
(3) Limited winery
(4) Brewery
(5) Distillery
(6) Fuel alcohol
(7) Wine importer
(8) Wine wholesaler
(9) Malt beverages importer
(10) Malt beverages wholesaler
(11) Bottler
(12) Salesman

(b) Evidence of Domestication. The fact that a distillery, brewery, winery, or bottler has applied for or obtained a permit under this Article shall not be construed as domesticking the applicant or permittee and is not evidence for any purpose that the applicant or permittee is doing business in this State.

"§ 18B-1101. Authorization of unfortified winery permit.—The holder of an unfortified winery permit may:

(1) Manufacture unfortified wine;

(2) Sell, deliver and ship unfortified wine in closed containers to wholesalers licensed under this Chapter as authorized by the ABC laws, except that wine may be sold to nonresident wholesalers only when the purchase is not for resale in this State;

(3) If it is a resident North Carolina winery, ship its wine in closed containers to individual purchasers inside and outside this State;

(4) Furnish or sell 'short-filled' packages, on which State taxes have been or will be paid, to its employees for the use of the employees or their families and guests in this State;

(5) Regardless of the results of any local wine election, sell the winery's wine for off-premises consumption upon obtaining a permit under G.S. 18B-1001(4).

A sale under subdivision (4) shall not be considered a retail or wholesale sale under the ABC laws.

"§ 18B-1102. Authorization of fortified winery permit.—The holder of a fortified winery permit may:

(1) Manufacture, purchase, import and transport brandy and other ingredients and equipment used in the manufacture of fortified wine;

(2) Sell, deliver and ship fortified wine in closed containers to wholesalers licensed under this Chapter as authorized by the ABC laws, except that wine may be sold to nonresident wholesalers only when the purchase is not for resale in this State;

(3) If it is a resident North Carolina winery, ship its wine in closed containers to individual purchasers inside and outside this State;

(4) Furnish or sell 'short-filled' packages, on which State taxes have been or will be paid, to its employees for the use of the employees or their families and guests in this State;

(5) Regardless of the results of any local wine election, sell the winery's wine for off-premises consumption upon obtaining a permit under G.S. 18B-1001(6).

A sale under subdivision (4) shall not be considered a retail or wholesale sale under the ABC laws.

"§ 18B-1103. Authorization of limited winery permit.—(a) Special Qualifications. Any resident winery which holds an unfortified winery permit and which produces its wine principally from honey, grapes or other fruit or grain grown in this State may obtain a limited winery permit.

(b) Authorized Acts. The holder of a limited winery permit may give visitors free tasting samples of the wine. The Commission may issue rules regulating these tastings.

"§ 18B-1104. Authorization of brewery permit.—The holder of a brewery permit may:

(1) Manufacture malt beverages;

(2) Purchase malt, hops and other ingredients used in the manufacture of malt beverages;
(3) Sell, deliver and ship malt beverages in closed containers to wholesalers licensed under this Chapter as authorized by the ABC laws, except that malt beverages may be sold to nonresident wholesalers only when the purchase is not for resale in this State;

(4) Receive malt beverages manufactured by the permittee in some other state for transshipment to dealers in other states;

(5) Furnish or sell marketable malt beverage products, or packages which do not conform to the manufacturer's marketing standards, if State taxes have been or will be paid, to its employees for the use of the employees or their families and guests in this State;

(6) Give its products to its employees and guests for consumption on its premises.

A sale or gift under subdivision (5) or (6) shall not be considered a retail or wholesale sale under the ABC laws.

"§ 18B-1105. Authorization of distillery permit.—(a) Authorized Acts. The holder of a distillery permit may:

(1) Manufacture, purchase, import, possess and transport ingredients and equipment used in the distillation of spirituous liquor;

(2) Sell, deliver and ship spirituous liquor in closed containers at wholesale to local boards within the State, and, subject to the laws of other jurisdictions, at wholesale or retail to private or public agencies or establishments of other states or nations;

(3) Transport into or out of the distillery the maximum amount of liquor allowed under federal law, if the transportation is related to the distilling process.

(b) Distilleries for Fuel Alcohol. Any person in possession of a Federal Operating Permit pursuant to Title 27, Code of Federal Regulations, Part 201.64 through 201.65 or Part 201.131 through 201.138 shall obtain a fuel alcohol permit before manufacturing any alcohol. The permit shall entitle the permittee to perform only those acts allowed by the Federal Operating Permit, and all conditions of the Federal Operating Permit shall apply to the State permit.

"§ 18B-1106. Authorization of wine importer permit.—The holder of a wine importer permit may:

(1) Import fortified and unfortified wines from outside the United States in closed containers;

(2) Store those wines;

(3) Sell those wines at wholesale for purposes of resale.

"§ 18B-1107. Authorization of wine wholesaler permit.—The holder of a wine wholesaler permit may:

(1) Receive, possess and transport shipments of fortified and unfortified wine;

(2) Sell, deliver and ship wine in closed containers for purposes of resale to wholesalers or retailers licensed under this Chapter as authorized by the ABC laws;

(3) Furnish and sell wine to its employees, subject to the rules of the Commission and the Department of Revenue;

(4) In locations where the sale is legal, furnish wine to guests and any other person who does not hold an ABC permit, for promotional purposes, subject to rules of the Commission.
“§ 18B-1108. Authorization of malt beverages importer permit.—The holder of a malt beverages importer permit may:

(1) Import malt beverages from outside the United States in closed containers;
(2) Store those malt beverages; (3) Sell those malt beverages at wholesale for purposes of resale.

“§ 18B-1109. Authorization of malt beverages wholesaler permit.—(a) Authorization. The holder of a malt beverages wholesaler permit may:

(1) Receive, possess and transport shipments of malt beverages;
(2) Sell, deliver and ship malt beverages of any brand filed pursuant to subsection (b) in closed containers, for purpose of resale, to wholesalers or retailers licensed under this Chapter as authorized by the ABC laws;
(3) Furnish and sell malt beverages filed pursuant to subsection (b) to its employees subject to the rules of the Commission and the Department of Revenue;
(4) In locations where the sale is legal, furnish malt beverages of any brand filed pursuant to subsection (b) to guests and any other person who does not hold an ABC permit, for promotional purposes, subject to the rules of the Commission.

(b) Distribution Agreements. Pursuant to the authority of the State under the Twenty-First Amendment to the United States Constitution, to promote the public’s interest in fair and efficient distribution of malt beverages, and to assure the public’s interest in uniform and effective control of the distribution of malt beverage products within the State, it is unlawful for a wholesaler to sell any brand of malt beverage in this State except in the territory described in a distribution agreement filed pursuant to this subsection authorizing sale by the wholesaler of that brand within a designated area. Within that designated area the wholesaler shall service all dealer and retail permittees without discrimination. The distribution agreement shall be in writing, shall specify the brands it covers, and shall be filed with the Commission. If a brewer sells several brands, the agreement need not apply to all brands sold by the brewer and may apply to only one brand. No brewer, importer, or other supplier may provide by a distribution agreement for the distribution of a brand filed pursuant to this subsection to more than one distributor for all or any part of the designated territory. A wholesaler may, however, service a territory outside the territory designated in its distribution agreement during periods of temporary service interruptions when so requested by the brewer and the wholesaler whose service is temporarily interrupted, with the approval of the Commission.

Each wholesaler shall file a copy of its distribution agreement and any amendments with the Commission promptly following the effective date of this Chapter, unless an existing distribution agreement complies with the provisions of this subsection and is already on file with the Commission.

No provision of any distribution agreement may expressly, by implication, or in its operation, establish or maintain the resale price of any brand of malt beverage by a franchised wholesaler.

“§ 18B-1110. Authorization of bottler permit.—The holder of a bottler permit may:

(1) Receive, possess and transport shipments of malt beverages, unfortified wine and fortified wine;
(2) Bottle, sell, deliver and ship malt beverages, unfortified wine, and fortified wine in closed containers to wholesalers licensed under this Chapter as authorized by the ABC laws;

(3) Furnish or sell packages which do not conform to the manufacturer's marketing standards, if State taxes have been or will be paid, to its employees for the use of the employees or their families and guests in this State.

A sale or gift under subdivision (3) shall not be considered a retail or wholesale sale under the ABC law.

"§ 18B-1111. Authorization of salesman permit.—(a) Authorized Acts. The holder of a salesman permit may sell and transport malt beverages for a malt beverage wholesaler or sell and transport unfortified and fortified wine for a wine wholesaler.

(b) Persons Required to Obtain Permit. All route salesmen and salesmen working at a wholesaler's warehouse shall obtain the permit described in this section. All salesmen shall be at least 21 years old.

(c) Validity Period. A salesman permit shall be valid as provided in G.S. 18B-903(a), except that it shall be valid only so long as the salesman is employed by the same wholesaler.

"§ 18B-1112. Commercial transportation.—(a) Permit Required. Unless a person holds a permit which otherwise allows him to transport more than 80 liters of malt beverages other than draft malt beverages in kegs, 20 liters of unfortified wine, or four liters of fortified wine or spirituous liquor, or is a retailer authorized to transport alcoholic beverages under G.S. 18B-405, each person transporting alcoholic beverages in excess of those quantities shall have the permit described in this section.

(b) When Transportation Legal. No person may obtain a permit under this section to transport spirituous liquor unless the transportation is for delivery to a federal reservation over which North Carolina has ceded jurisdiction to the United States, for delivery to an ABC store, or for transport through this State to another state.

(c) Common Carriers. Railroad companies and other common carriers having regularly established schedules of service in this State may transport alcoholic beverages into, out of, and between points in this State without a permit. Those companies shall keep accurate records of the character, volume and number of containers transported and shall allow the Commission and alcohol law enforcement agents to inspect those records at any time. The Commission may require common carriers to make reports of shipments.

(d) Motor Vehicle Carriers. Alcoholic beverages may be transported over the public highways of this State by motor vehicle carriers under the following conditions:

(1) The carrier shall notify the Commission of the character of the alcoholic beverages it will transport and of its authorization from the appropriate regulatory authority.

(2) The carrier shall obtain, at no charge, a fleet permit from the Commission authorizing the transportation.

(3) The driver or person in charge of each vehicle transporting alcoholic beverages shall possess a copy of the carrier's fleet permit certified by the carrier to be an exact copy of the original.

(4) The driver or person in charge of each vehicle transporting alcoholic beverages shall possess a bill of lading, invoice or other memorandum of
shall:

(5) The driver or person in charge of each vehicle transporting the alcoholic beverages shall display all documents required by this section upon request of any law enforcement officer. Failure to produce these documents or failure of the documents to disclose clearly and accurately the information required by this section shall be prima facie evidence of a violation of this section.

(6) Each carrier shall keep accurate records of character, volume and number of containers transported and shall allow the Commission and alcohol law enforcement agents to inspect those records at any time. The Commission may require carriers to make reports of shipments.

(e) Transportation of Spirituous Liquor. In addition to the requirements of subsection (d), motor vehicle carriers engaged in transporting spirituous liquor shall:

(1) Deposit with the Commission a surety bond for one thousand dollars ($1,000) conditioned that the carrier will not unlawfully transport spirituous liquor into or through this State. The bond, which shall be approved by the Commission, shall be payable to the State of North Carolina. If the bonded carrier is convicted of a violation covered by the bond, the proceeds of the forfeited bond shall be paid to the school fund of the county in which the liquor was seized.

(2) Include in its bill of lading, invoice or other memorandum of shipment the North Carolina code numbers of the spirituous liquor being transported.

(3) Include in its bill of lading, invoice or other memorandum of shipment the route which the vehicle will follow, and the vehicle shall not vary substantially from that stated route.

(f) Malt Beverages and Wine Transported by Boats. The owner or operator of any boat may transport malt beverages, unfortified wine and fortified wine over the waters of this State if he satisfies all requirements of subsection (d).

(g) State Warehouse Carrier. The Commission may exempt a carrier for the State warehouse from any of the requirements of this section provided that it determines that the requirements of this section are otherwise satisfied.

§ 18B-1113. Exclusive outlets prohibited.—(a) Prohibitions. It shall be unlawful for any manufacturer, bottler, or wholesaler of any alcoholic beverages, or for any officer, director, or affiliate thereof, either directly or indirectly to:

(1) Require that an alcoholic beverage retailer purchase any alcoholic beverages from that person to the full or partial exclusion of any other alcoholic beverages offered for sale by other persons in this State; or

(2) Have any direct or indirect financial interest in the business of any alcoholic beverage retailer in this State or in the premises where the business of any alcoholic beverage retailer in this State is conducted; or

(3) Lend or give to any alcoholic beverage retailer in this State or his employee or to the owner of the premises where the business of any
alcoholic beverage retailer in this State is conducted, any money, service, equipment, furniture, fixtures or any other thing of value.
(b) Exemptions. The Commission may grant exemptions from the provisions of this section. In determining whether to grant an exemption, the Commission shall consider the public welfare, the quantity and value of articles involved, established trade customs not contrary to the public interest, and the purposes of this section.

"§ 18B-1114. Coercion and unjust franchise cancellations prohibited.—(a) Definition of Franchise. It shall be prima facie evidence that a contractual franchise relationship within the contemplation of this section exists between a licensed malt beverage wholesaler and a brewery if:

1. The brewery has shipped malt beverages, prepared malt beverages for shipment, or accepted any order for malt beverages from a licensed wholesaler within this State; or
2. A wholesaler has paid or the brewery has accepted payment for an order of malt beverages intended for sale within this State.
(b) Prohibitions. It shall be unlawful for any brewery, or an officer, agent or representative thereof to:

1. Coerce or attempt to coerce or persuade any licensed wholesaler to enter into any agreement to violate any provision of the ABC laws or any rule of the Department of Revenue; or
2. Cancel or terminate without just cause or provocation or without due regard for the equities of the wholesaler, any contract or franchise with a wholesaler to sell malt beverages manufactured at the brewery. The provisions of this subdivision shall be a part of each franchise or contract between a North Carolina wholesaler and any brewery doing business with that wholesaler, whether or not the provision is specifically agreed upon between the parties.
(c) Injunctions. Based on the appropriate findings pursuant to subdivision (b)(2), the superior court has the jurisdiction and power to enjoin the termination of any franchise agreement with a wholesaler upon the application of the aggrieved wholesaler. The terms of the injunction shall require the aggrieved wholesaler to supply the customers in its territory with their reasonable retail requirements and to otherwise service the territory. On two days' written notice to the aggrieved wholesaler, any party enjoined pursuant to this subsection may appear and move for modification of the injunction. If the court finds that the aggrieved wholesaler has failed or refused to supply the customers in its territory with their reasonable retail requirements or otherwise service its territory, it may permit the brewery to make any other arrangements to supply the customers or service the territory, including arrangements with other wholesalers while the injunction is in effect. The Commission may revoke or suspend the permit of any wholesaler or brewery which the court finds violated the terms of an injunction ordered under this subsection."

Sec. 3. In all places where it appears in the General Statutes, the phrase "Chapter 18A" is amended to read "Chapter 18B".

Sec. 4. In all places where these phrases appear, the General Statutes are amended as follows:

1. The term "State Board of Alcoholic Control" is amended to read "North Carolina Alcoholic Beverage Control Commission";

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(2) The term "State ABC Board" is amended to read "State ABC Commission";
(3) The term "State Board" (when the term refers to the State ABC Board) is amended to read "State Commission";
(4) The terms "intoxicating liquor" or "liquor" are amended to read "alcoholic beverages".

Sec. 5. Wherever the phrase "State Board of Alcoholic Control", "State ABC Board", "State Board" (when that phrase refers to the State ABC Board), or an equivalent phrase is found, those terms shall mean the North Carolina Alcoholic Beverage Control Commission.

Sec. 6. Current forms, stationery, signs and other materials carrying the old name of the North Carolina Alcoholic Beverage Control Commission shall be used until they would otherwise be replaced, and no State or local funds other than current appropriations to State and local ABC boards shall be used in effectuating the change of name of the State Board of Alcoholic Control to the North Carolina Alcoholic Beverage Control Commission. Replacements for current forms, stationery, signs and other materials shall carry the new name of the Commission.

Sec. 7. All local, public-local, and private acts in conflict with the following new sections are repealed: G.S. 18B-201, G.S. 18B-205, G.S. 18B-701, G.S. 18B-702, G.S. 18B-800, G.S. 18B-802, and G.S. 18B-803.

Sec. 8. All local, public-local, and private acts in conflict with G.S. 18B-700 and G.S. 18B-805 are repealed except as provided in those new sections.

Sec. 9. All local, public-local, and private acts in conflict with Article 6 of Chapter 18B are repealed except as provided in G.S. 18B-604(b) and (c) and in G.S. 18B-605.

Sec. 10. All sales of alcoholic beverages which were approved in elections held before the effective date of this act remain valid under the terms of those elections except as G.S. 18B-603 allows the issuance of permits that were not authorized under the comparable provisions of Chapter 18A. Any ABC permit issued before the effective date of this act remains valid until its expiration date, or until suspended or revoked or replaced with the equivalent permit issued under Chapter 18B.

Sec. 11. This act shall become effective January 1, 1982, except that the following parts of the act are effective upon ratification: Section 9; that part of Section 2 that contains Article 6, Elections, of new Chapter 18B; and that part of Section 1 that concerns election provisions in conflict with Article 6. To implement Article 6 the State ABC Board may issue permits under Chapter 18A when the present permit is the equivalent of the permit authorized by Article 6, but the Board may not before January 1, 1982, issue permits authorized by Chapter 18B that are of a different character from permits issued under Chapter 18A and have no equivalent in present law. Except for matters directly related to the conduct of elections and the issuance of permits, Chapter 18A remains in effect until January 1, 1982, and references in Article 6 to other provisions in Chapter 18B are considered references to the equivalent provisions of Chapter 18A. An election called before the effective date of this act, to be held after the effective date, remains subject to the election procedures in effect when the election was called.

In the General Assembly read three times and ratified, this the 18th day of May, 1981.
H. B. 506  CHAPTER 413
AN ACT TO RAISE THE YEAR'S ALLOWANCES FOR A SURVIVING SPOUSE AND CHILDREN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 30-15 is amended by deleting the phrase "two thousand dollars ($2,000)" and substituting the phrase "five thousand dollars ($5,000)".

Sec. 2. G.S. 30-17 is amended by deleting the phrase "six hundred dollars ($600.00)" and substituting the phrase "one thousand dollars ($1,000)".

Sec. 3. G.S. 30-26 is amended by deleting the phrase "two thousand dollars ($2,000)" and substituting the phrase "five thousand dollars ($5,000)".

Sec. 4. G.S. 30-29 is amended by deleting the phrase "two thousand dollars ($2,000)" and substituting the phrase "five thousand dollars ($5,000)".

Sec. 5. This act is effective upon ratification and applies to estates of persons dying on or after that date.

In the General Assembly read three times and ratified, this the 18th day of May, 1981.

H. B. 523  CHAPTER 414
AN ACT TO REWRITE THE STATUTORY PROVISION PERTAINING TO DAMAGES RECOVERABLE FROM PARENTS FOR A MINOR'S INJURY TO PERSON OR PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1-538.1 is rewritten to read:

"§ 1-538.1. Strict liability for damage to person or property by minors.—Any person or other legal entity shall be entitled to recover actual damages suffered in an amount not to exceed a total of one thousand dollars ($1,000) from the parent or parents of any minor who shall maliciously or willfully injure such person or destroy the real or personal property of such person. Parents whose custody and control have been removed by court order or by contract prior to the act complained of shall not be liable under this act. This act shall not preclude or limit recovery of damages from parents under common law remedies available in this State."

Sec. 2. This act is effective upon ratification and applies to actions for damages suffered on or after this date.

In the General Assembly read three times and ratified, this the 18th day of May, 1981.

H. B. 656  CHAPTER 415
AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE CITY OF BREVARD AND TO REPEAL PRIOR LOCAL ACTS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Brevard is hereby revised and consolidated to read as follows:

"THE CHARTER OF THE CITY OF BREVARD."

"ARTICLE 1."
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"Incorporation, Corporate Powers and Boundaries.

"Section 1.1. \textit{Incorporation.} The City of Brevard, North Carolina in the County of Transylvania and the inhabitants thereof, shall continue to be a municipal body politic and corporate, under the name and style of the City of Brevard, hereinafter at times referred to as the \textquote{City}'.

"Sec. 1.2. \textit{Powers.} The City of Brevard shall have and may exercise all of the powers, duties, rights, privileges and immunities which are now or hereafter may be conferred, either expressly or by implication, upon the City of Brevard specifically or upon municipal corporations generally by this Charter, by the State Constitution, or by general or local law.

"Sec. 1.3. \textit{Corporate limits.} (a) The corporate limits of the City of Brevard shall be as follows:

\textquote{BEGINNING at the center of Neely Road at the center of Kings Creek (Corner 1) and runs with the center of Kings Creek in an easterly direction 420 feet to Corner 2, a point, Fred Fendley\'s northeast corner; thence with Fred Fendley\'s line South 39 degrees West 350 feet to Corner 3, a point, Fred Fendley\'s south corner in the line of High View Terrace; thence with the line of High View Terrace South 53 degrees and 45 minutes East 318 feet to Corner 4, a stake, the east corner of Lot 9 of High View Terrace; thence still with the line of High View Terrace South 53 degrees East 160 feet to Corner 5, a stake, the east corner of Lot 11 of High View Terrace; thence still with the line of High View Terrace South 70 degrees and 30 minutes East 80 feet to Corner 6, a stake, the northeast corner of Lot 12 of High View Terrace; thence still with the line of High View Terrace South 15 degrees West approximately 10 feet to Corner 7, an iron pipe, the northwest corner of the former Frank King property; thence South 78 degrees and 42 minutes East 148.5 feet to Corner 8, an iron pipe, the northeast corner of the said Frank King property; thence South 16 degrees and 29 minutes West 406.2 feet to Corner 9, an iron pipe, said iron pipe being in the north margin of an old road; thence South 16 degrees and 29 minutes West 5 feet to Corner 10, a point in the center of the said road; thence East with the center of the said old road approximately 175 feet to Corner 11, a point in the center of a ditch or branch; thence up and with the center of said ditch or branch in a southwest direction approximately 1580 feet to Corner 12, an iron pipe T.K. McCrary\'s northeast corner; thence South 1 degree East 448 feet to Corner 13, a stake, T.K. McCrary\'s corner; thence South 14 degrees and 50 minutes West 135 feet crossing Elm Bed Road to Corner 14, a stake located 30 feet South of the center of Elm Bend Road; thence in a western direction along a line parallel with and 30 feet south of the center of Elm Bend Road for a distance of approximately 80 feet to Corner 15, a stake in the line dividing the properties of Louis Moore and F. Moore; thence with the said dividing line South 5 degrees East 165 feet to Corner 16, a stake in the center of a ditch; thence with the property line of the Transylvania County Board of Education nine calls as follows:

(1) South 69 degrees East 206.00 feet to Corner 17, an iron pipe;
(2) South 20 degrees and 46 minutes East 399.45 feet to Corner 18, an iron pipe;
(3) South 69 degrees and 14 minutes West 60.00 feet to Corner 19, an iron pipe;
(4) South 20 degrees and 46 minutes East 75.73 feet to Corner 20, an iron pipe;
(5) South 14 degrees and 00 minutes West 255.57 feet to Corner 21, an iron pipe;
(6) South 85 degrees and 41 minutes West 394.73 feet to Corner 22, an iron pipe;
(7) South 51 degrees and 39 minutes West 229.08 feet to Corner 23, an iron pipe;"
(8) South 49 degrees and 14 minutes West 153.72 feet to Corner 24, a nail in the center of U.S. Highway 276;  
(9) North 28 degrees and 50 minutes West 597.27 feet to Corner 25, a point in the center of U.S. Highway 276 at the center of a culvert; thence about Northeast 18 feet to Corner 26, a point at the center of the northeast edge of the concrete headwall of said culvert; thence North 29 degrees and 56 minutes West 250.0 feet to Corner 27, a stake set 12.7 feet northeast of the center of U.S. Highway 276; thence along the northeast margin of U.S. Highway 276 in a northwest direction for a distance of approximately 95 feet to Corner 28, a stake located 3960 feet from the Transylvania County Courthouse; thence in a southwest direction along a curved line which is at all points located 3960 feet from the aforesaid Transylvania County Courthouse for a distance of approximately 920 feet to Corner 29, a stake in the line of property formerly owned by C. E. Cochran; thence with the line of the said C. E. Cochran property 15 calls as follows:  
(1) South 23 degrees and 38 minutes East 261 feet to Corner 30, a stake;  
(2) South 46 degrees and 15 minutes West 85.15 feet to Corner 31, a stake;  
(3) South 40 degrees and 23 minutes West 61.1 feet to Corner 32, a stake;  
(4) South 44 degrees and 20 minutes West 109.3 feet to Corner 33, a stake in the center of Singing Branch;  
(5) North 86 degrees and 44 minutes West 120.1 feet to Corner 34, a stake in the center of said Singing Branch;  
(6) North 30 degrees and 00 minutes East 62.4 feet to Corner 35, a stake;  
(7) North 68 degrees and 00 minutes West 50.0 feet to Corner 36, a stake;  
(8) South 30 degrees and 00 minutes West 50.0 feet to Corner 37, a stake;  
(9) South 89 degrees and 00 minutes West 55.0 feet to Corner 38, a stake;  
(10) North 58 degrees and 30 minutes West 100.0 feet to Corner 39, a stake;  
(11) North 37 degrees and 00 minutes West 65.6 feet crossing Gallimore Road to Corner 40, a stake;  
(12) South 29 degrees and 00 minutes West 33.2 feet to Corner 41, a stake in the center of the aforesaid Singing Branch;  
(13) North 58 degrees and 08 minutes West 80.45 feet to Corner 42, a stake in the center of Singing Branch;  
(14) North 18 degrees and 38 minutes West 28.3 feet to Corner 43, a stake in the center of Singing Branch;  
(15) Northwest with the center of Singing Branch approximately 10 feet to Corner 44, a point located 3960 feet from the Transylvania County Courthouse; thence in a southwest direction along a curved line which is at all points located 3960 feet from the aforesaid Transylvania County Courthouse for a distance of approximately 500 feet to Corner 45, a stake in the line of properties of Henry E. Garren and Lewis Moore Estate; thence with said line South 17 degrees and 30 minutes East approximately 50 feet to Corner 46, a post oak, the southeast corner of the Henry E. Garren property; thence South 17 degrees and 30 minutes East 750 feet crossing the aforesaid Gallimore Road to Corner 47, a point in the line of the said Lewis Moore Estate property located 180 feet southeast of the center of said Gallimore Road; thence South 43 degrees West approximately 1250 feet along a line parallel with and 180 feet from the center of the said Gallimore Road to Corner 48, a point in the west boundary line of property of Paul Lollis as described in Deed Book 118 at Page 201 of the deed records for Transylvania County, N. C.; thence South 4 degrees East
approximately 290 feet to Corner 49, a stake in the south side of a proposed 30 foot road; thence with the south side of said proposed road South 77 degrees and 44 minutes East 103 feet to Corner 50, a stake, the northeast corner of property of the Board of Education as described in Deed Book 119 at Page 83 of the deed records for Transylvania County, N. C.; thence with the property line of the Board of Education eight calls as follows:

1. South 12 degrees and 16 minutes West 1084 feet to Corner 51, a stake in the center of Nicholson Creek;
2. South 47 degrees and 51 minutes West 180 feet to Corner 52, a point in the center of Nicholson Creek;
3. North 53 degrees and 38 minutes West 175.0 feet to Corner 53, a point in the center of Nicholson Creek;
4. North 67 degrees and 30 minutes West 85.0 feet to Corner 54, a point in the center of Nicholson Creek;
5. North 55 degrees and 33 minutes West 100 feet to Corner 55, a point in the center of Nicholson Creek;
6. North 69 degrees and 16 minutes West 90.0 feet to Corner 56, a point in the center of Nicholson Creek;
7. North 81 degrees and 10 minutes West 70.0 feet to Corner 57, a point in the center of Nicholson Creek; thence leaving the said Nicholson Creek.
8. North 61 degrees and 30 minutes West 828 feet to Corner 58, a point in the center of Country Club Road; thence North 61 degrees and 30 minutes West approximately 33 feet to Corner 59, a point in the west margin of Country Club Road (a 60 foot road); thence with the west margin of Country Club Road North 2 degrees and 00 minutes East 110 feet to Corner 60, a point; thence still with the west margin of Country Club Road along a line curving to the right or eastward, said curve having a radius of 395 feet, for a distance of 200 feet to Corner 61, a point; thence still with the west margin of Country Club Road North 31 degrees and 05 minutes East 720 feet to Corner 62, a stake; thence North 61 degrees and 15 minutes West 370 feet to Corner 63, a stake; thence North 46 degrees West 330 feet to Corner 64, a stake; thence North 10 degrees East 143 feet to Corner 65, a point in the south boundary line of South View Acres, thence with the line of said South View Acres six calls as follows:

1. South 65 degrees and 36 minutes West 367.78 feet to Corner 66, an iron bar;
2. North 33 degrees and 09 minutes West 681.08 feet to Corner 67, an iron pipe;
3. North 76 degrees and 28 minutes East 116.33 feet to Corner 68, an iron pipe;
4. North 77 degrees and 11 minutes East 343.32 feet to Corner 69, a concrete monument;
5. South 14 degrees and 51 minutes East 166.00 feet to Corner 70, a concrete monument;
6. North 74 degrees and 10 minutes East 304.60 feet to Corner 71, an iron pipe; thence North 24 degrees West 115.9 feet to Corner 72, a stake; thence South 80 degrees and 30 minutes West 273 feet to Corner 73, a stake; thence North 15 degrees West 680 feet to Corner 74, a stake located 3960 feet southwest of the aforesaid Transylvania County Courthouse; thence along a curved line which is at all points located 3960 feet from the aforesaid Transylvania County Courthouse in a general northwest direction for a distance of approximately 3600 feet to Corner 75, a concrete monument in the line of property formerly owned by Mary Jane McCrary; thence with the line of the said McCrary property 21 calls as follows:
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(1) South 76 degrees and 51 minutes West 181.38 feet crossing Probart Street extension to Corner 76, an iron pipe;
(2) North 22 degrees and 09 minutes West 154.0 feet to Corner 77, an iron rod;
(3) North 06 degrees and 09 minutes West 202.0 feet to Corner 78, an iron rod;
(4) North 48 degrees and 24 minutes West 101.0 feet to Corner 79, an iron rod;
(5) South 76 degrees and 28 minutes West 180.53 feet to Corner 80, an iron pipe;
(6) North 86 degrees and 52 minutes West 54.0 feet to Corner 81, an iron pipe;
(7) North 55 degrees and 06 minutes West 433.88 feet crossing Probart Street Extension to Corner 82, an iron pipe;
(8) North 33 degrees and 51 minutes East 40.07 feet to Corner 83, an iron pipe;
(9) North 21 degrees and 53 minutes West 104.88 feet to Corner 84, an iron pipe;
(10) North 55 degrees and 34 minutes West 196.05 feet to Corner 85, a planted stone;
(11) North 33 degrees and 33 minutes East 65.53 feet to Corner 86, a planted stone at a fence corner;
(12) North 06 degrees and 44 minutes East 230.33 feet to Corner 87, a planted stone at a fence corner;
(13) North 25 degrees and 10 minutes East 254.21 feet to Corner 88, a planted stone;
(14) South 05 degrees and 05 minutes East 16.31 feet to Corner 89, an iron pipe at a fence corner;
(15) South 53 degrees and 07 minutes East 130.22 feet to Corner 90, an iron pipe at a fence corner;
(16) North 86 degrees and 30 minutes East 193.83 feet to Corner 91, an iron pipe at a fence corner;
(17) South 66 degrees and 23 minutes East 123.37 feet to Corner 92, an iron pipe at a fence corner;
(18) South 29 degrees and 40 minutes East 154.26 feet to Corner 93, an iron pipe at a fence corner;
(19) South 46 degrees and 22 minutes East 274.91 feet to Corner 94, an iron pipe at a fence;
(20) South 40 degrees and 12 minutes East 135.50 feet to Corner 95, a concrete monument located 3960 feet from the aforesaid Transylvania County Courthouse; thence along a curved line which is at all points located 3960 feet from the aforesaid Transylvania County Courthouse in a general north and northeast direction for a distance of approximately 7860 feet to Corner 96, a stake in the northwest boundary line of property of Brevard Manufacturing Company; thence with the line of the Brevard Manufacturing Company North 49 degrees and 14 minutes East approximately 288 feet to Corner 97, a stake, the northernmost corner of property of the said Brevard Manufacturing Company; thence South 04 degrees and 23 minutes East 254.0 feet to Corner 98, a stake in the center of the Southern Railway Company’s right of way; thence in a general northeast direction approximately 500 feet to Corner 99, a point in the center of the Southern Railway Company’s right of way, said point located 25 feet east of the center of Fisher Road; thence with the east margin of Fisher Road (a 50 foot road) and with the east margin of Crestwood Drive North 5 degrees and 43 minutes East 508.05 feet to Corner 100, an iron pin; thence crossing Crestwood Drive South 84 degrees and 17 minutes West 50 feet to Corner 101, a stake in the west margin of Crestwood Drive; thence with the west margin of Crestwood Drive South 5 degrees and 43 minutes East 190 feet

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to Corner 102, an iron pipe at the intersection of the north margin of Fisher Road (S.R. 1356) and the west margin of Crestwood Drive; thence South 00 degrees and 11 minutes West 30 feet to Corner 103, a point in the center of Fisher Road; thence in a northwesterly direction with the center of said Fisher Road approximately 975 feet to Corner 104, a point in the center of Fisher Road at its intersection with the center of the aforesaid Crestwood Drive; thence North 3 degrees and 27 minutes East 346.7 feet with the center of Crestwood Drive to Corner 105, a point in the center of said Crestwood Drive; thence North 81 degrees and 22 minutes East 25.66 feet to Corner 106, an iron pipe; thence North 01 degrees and 32 minutes East 127.58 feet to Corner 107, an iron pipe; thence along a line curving to the west, said curve having a radius of 116.46 feet and a length of 237.95 feet to Corner 108, an iron pipe; thence South 64 degrees and 28 minutes West 84.00 feet to Corner 109, an iron pipe; thence along a line curving to the north, said curve having a radius of 53.35 feet and a length of 119.19 feet to Corner 110, an iron pipe; thence North 12 degrees and 28 minutes East 204.50 feet to Corner 111, an iron pipe; thence along a line curving to the northeast, said curve having a radius of 151.18 feet and a length of 80.56 feet to Corner 112, an iron pipe; thence North 43 degrees and 00 minutes East 67.00 feet to Corner 113, an iron pipe; thence along a line curving to the east, said curve having a radius of 60.89 feet and a length of 78.64 feet to Corner 114, an iron pipe; thence South 63 degrees and 00 minutes East 117.41 feet to Corner 115, an iron pipe; thence North 24 degrees and 13 minutes East 301.81 feet to Corner 116, an iron pipe; thence South 40 degrees and 32 minutes East 470 feet to Corner 117, a concrete monument; thence South 40 degrees and 41 minutes East 141 feet to Corner 118, a 9 inch Sourwood; thence South 53 degrees and 09 minutes East 739.17 feet to Corner 119, a concrete monument; thence North 49 degrees and 07 minutes East 69.18 feet to Corner 120, a concrete monument; thence North 88 degrees and 23 minutes East 48.34 feet to Corner 121, a point in the center of Siniard or Bridges Creek; thence down and with the center of said Siniard or Bridges Creek; South 43 degrees and 01 minutes East 127.30 feet to Corner 122, a point, said point being the westernmost corner of property of James C. Gaither, Sr.; thence with the property line of said James C. Gaither, Sr., three calls as follows:

(1) North 61 degrees and 43 minutes East 63.65 feet to Corner 123, a concrete monument;
(2) North 62 degrees and 03 minutes East 99.81 feet to Corner 124, the top of a leaning concrete monument;
(3) South 85 degrees and 20 minutes East 447.15 feet, passing a concrete monument at 411.45 feet to Corner 125, a point in the center of the Southern Railway Company's right of way; thence North 1 degree and 18 minutes West 259.44 feet to Corner 126, a point; thence North 25 degrees and 19 minutes East 100.11 feet to Corner 127, an iron pipe; thence North 69 degrees and 15 minutes East 135.63 feet to Corner 128, an iron pipe; thence North 20 degrees 30 minutes East along the West side of an 18 foot right of way to Corner 129, an iron pipe located 14 feet south of the South edge of the pavement of Camp Carolina Road, State Road # 1357; thence North 86 degrees 30 minutes West 125 feet parallel to Camp Carolina Road to Corner 129A, a point in the center of a ditch, 14 feet South of the South edge of pavement of Camp Carolina Road; thence North 20 degrees 53 minutes East 63.1 feet to Corner 130, an iron pipe located 30 feet North of the center of Camp Carolina Road; thence North 88
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degrees and 41 minutes West 110.9 feet to Corner 131, an iron pipe located 30 feet north of Camp Carolina Road; thence North 43 degrees and 52 minutes East 361.13 feet to Corner 132, a fence corner; thence North 49 degrees and 19 minutes East 453.55 feet to Corner 133, a fence corner located 6 feet south of an old road; thence North 87 degrees and 53 minutes West 253.7 feet to Corner 134, a point; thence North 27 degrees and 44 minutes East 461.7 feet to Corner 135, an iron pipe; thence North 27 degrees and 44 minutes East 512.27 feet to Corner 136, a point in the center of Camp Strauss Road; thence South 37 degrees and 14 minutes East 190.50 feet to Corner 137, a point in the center of Camp Strauss Road; thence South 47 degrees and 14 minutes East 53.13 feet to Corner 138, a point in the center of Camp Strauss Road; thence following along the west and northwest margin of the 150 foot right of way for U. S. Highway 64 twelve calls as follows:

(1) North 16 degrees and 15 minutes East 173.11 feet to Corner 139, a point
(2) North 20 degrees and 36 minutes East 166.6 feet to Corner 140, a point;
(3) North 27 degrees and 08 minutes East 172.67 feet to Corner 141, a point;
(4) North 33 degrees and 39 minutes East 154.3 feet to Corner 142, a point;
(5) North 38 degrees and 37 minutes East 233.7 feet to Corner 143, a point;
(6) North 40 degrees and 36 minutes East 1018.06 feet crossing Allison Creek to Corner 144, a point;
(7) North 37 degrees and 58 minutes East 195.63 feet to Corner 145, a point;
(8) North 31 degrees and 03 minutes East 265.73 feet to Corner 146, a concrete right of way monument;
(9) North 23 degrees and 43 minutes East 160.06 feet to Corner 147, a point;
(10) North 18 degrees and 02 minutes East 234.21 feet to Corner 148, a point;
(11) North 11 degrees and 21 minutes East 220.60 feet to Corner 149, a point;
(12) North 7 degrees and 33 minutes East 517.23 feet to Corner 150, a concrete monument; thence crossing U. S. Highway 64, South 69 degrees and 14 minutes East 150.0 feet to Corner 151, a concrete monument in the east margin of said 150 foot right of way for U. S. Highway 64; thence South 69 degrees and 14 minutes East 813.88 feet along a fence to Corner 152, a point in the center of Lambs Creek; thence down and with the center of Lambs Creek South 18 degrees and 26 minutes West 339.7 feet to Corner 153, a point in the center of Lambs Creek; thence still down and with the center of Lambs Creek South 24 degrees and 51 minutes East 321.17 feet to Corner 154, a point in the center of Lambs Creek; thence South 83 degrees and 55 minutes East 15.0 feet to Corner 155, a concrete monument, the northwest corner of the property of the Transylvania Community Hospital; thence with the line of the property of the said Transylvania Community Hospital nine calls as follows:

(1) South 83 degrees and 55 minutes East 930.97 feet to Corner 156, an iron pipe;
(2) North 06 degrees and 05 minutes East 148.0 feet to Corner 157, an iron pipe in the south boundary of a street; thence with the south boundary of said street
(3) South 83 degrees and 55 minutes East 150.0 feet to Corner 158, a concrete monument;
(4) South 06 degrees and 05 minutes West 148.0 feet to Corner 159, a concrete monument;
(5) South 83 degrees and 56 minutes East 424.15 feet to Corner 160, a concrete monument;
(6) South 2 degrees and 49 minutes West 536.03 feet to Corner 161, a concrete monument;
(7) South 76 degrees and 49 minutes West 822.0 feet to Corner 162, an iron pipe;
(8) South 26 degrees and 31 minutes East 148.82 feet to Corner 163, a concrete monument;
(9) South 4 degrees and 38 minutes East 417.9 feet to Corner 164, a concrete monument, the south corner of property of the aforesaid Transylvania Community Hospital; thence South 1 degree and 29 minutes West 110.0 feet to Corner 165, a point in the center of the Southern Railway Company’s right of way; thence with the center of the said Southern Railway Company’s right of way thirteen calls as follows:
(1) North 88 degrees and 31 minutes West 813.7 feet to Corner 166, a point in the center of Lambs Creek;
(2) North 88 degrees and 31 minutes West 532.64 feet to Corner 167, a point;
(3) North 89 degrees and 59 minutes West 103.29 feet to Corner 168, a point;
(4) South 85 degrees and 38 minutes West 96.12 feet to Corner 169, a point;
(5) South 79 degrees and 44 minutes West 100.54 feet to Corner 170, a point;
(6) South 75 degrees and 37 minutes West 96.78 feet to Corner 171, a point;
(7) South 67 degrees and 40 minutes West 103.46 feet to Corner 172, a point;
(8) South 61 degrees and 17 minutes West 100.76 feet to Corner 173, a point;
(9) South 55 degrees and 14 minutes West 101.83 feet to Corner 174, a point;
(10) South 48 degrees and 35 minutes West 102.37 feet to Corner 175, a point;
(11) South 43 degrees and 19 minutes West 102.51 feet to Corner 176, a point;
(12) South 40 degrees and 34 minutes West 1543.02 feet to Corner 177, a point in the center of Osborne Road;
(13) South 40 degrees and 29 minutes West 127.3 feet to Corner 178, a point in the center of the said Southern Railway Company’s right of way; thence leaving the said right of way, South 05 degrees and 50 minutes West 1366.6 feet to Corner 179, a concrete monument; thence South 85 degrees and 04 minutes East 185.0 feet crossing Oakdale Avenue to Corner 180, a concrete Monument; thence South 04 degrees and 13 minutes West 83.3 feet to Corner 181, a point; thence South 02 degrees and 44 minutes East 67.1 to Corner 182, a point; thence South 12 degrees and 51 minutes East 64.0 feet to Corner 183, a point; thence South 21 degrees and 07 minutes East 193.6 feet crossing the center of the old Hendersonville Highway at 164.9 feet to Corner 184, an iron pipe; thence South 67 degrees and 23 minutes West 113.63 feet to Corner 185, an iron pipe located 28.7 feet southeast of the center of the aforesaid old Hendersonville Highway; thence South 04 degrees and 51 minutes East 165.13 feet to Corner 186, an iron pipe; thence South 84 degrees and 56 minutes East 161.86 feet to Corner 187, an iron pipe, the northeast corner of Dr. C. L. Newland property; thence South 00 degrees and 42 minutes West 200.0 feet to Corner 188, an iron pipe, Dr. C. L. Newland’s southeast corner; thence South 84 degrees and 54 minutes East 97.0 feet to Corner 189, a fence post; thence South 13 degrees and 54 minutes East 96.8 feet to Corner 190, a fence post; thence South 09 degrees and 14 minutes East 88.0 feet to Corner 191, a locust post; thence South 25 degrees and 20 minutes East 61.5 feet to Corner 192, a cherry tree stump; thence South 56 degrees and 53 minutes West 112.3 feet to Corner 193, an iron pipe; thence South 05 degrees and 50 minutes West 228.5 feet, passing an iron pipe at 215.8 feet to Corner 194, a point in the center of North Oak Street; thence with the center of said North Oak Street North 82 degrees and 01 minutes West
approximately 11 feet to Corner 195, a point; thence with the northeast boundary line of Cedarcrest subdivision South 15 degrees and 26 minutes East 808.5 feet to Corner 196, a point, the southeast corner of said Cedarcrest subdivision; thence with the line of property of Sam Owen North 80 degrees and 53 minutes West 392.56 feet to Corner 197, a point in the center of Neely Road; thence with the center of said Neely Road five calls as follows:

(1) South 24 degrees and 00 minutes East approximately 240 feet to Corner 198, a point;

(2) South 23 degrees and 00 minutes East 198 feet to Corner 199, a point;

(3) South 34 degrees and 00 minutes East 297 feet to Corner 200, a point;

(4) South 330 feet to Corner 201, a point;

(5) South 08 degrees and 00 minutes East 338.2 feet to Corner 202, a point in the center of said Neely Road at the center of Bridges Creek; thence up and with the center of said Bridges Creek five calls as follows:

(1) North 78 degrees West 275 feet to Corner 203, a point;

(2) North 49 degrees West 66 feet to Corner 204, a point;

(3) North 08 degrees and 30 minutes West 198 feet to Corner 205, a point;

(4) North 32 degrees and 30 minutes West 165 feet to Corner 206, a point;

(5) North 48 degrees West approximately 390 feet to Corner 207, a point located 3960 feet from the aforesaid Transylvania County Courthouse; thence along a curving line which is at all points located 3960 feet from the aforesaid Transylvania County Courthouse in a general south direction for a distance of approximately 1335 feet to Corner 208, a point in the center of the aforesaid King’s Creek; thence down and with the center of said King’s Creek in a general east direction approximately 80 feet to Corner 1, the BEGINNING. Containing 1635.8 acres or 2.61 square miles. Also included within the Brevard City limits but not adjoining the first tract above described is the following tract of land:

Being a tract of land lying on the north side of Elm Bend Road and known as McCrary Acres and being more fully described as follows:

BEGINNING at a railroad spike in the center of the said Elm Bend Road, said spike being the southeast corner of property of Alonzo Warren and runs thence along the line of said Alonzo Warren North 27 degrees and 28 minutes East 221.96 feet to an iron pin; thence North 30 degrees and 14 minutes East 349.88 feet to an iron pin; thence South 82 degrees and 24 minutes West 23.5 feet to an iron pin; thence North 0 degrees and 56 minutes East 198.82 feet to an iron pin; thence North 1 degree and 16 minutes East 412.64 feet to a stake; thence South 71 degrees and 01 minutes East 1108.38 feet to a stake in the center of a small branch or ditch; thence up and with the center of said small branch or ditch two calls as follows:

(1) South 18 degrees and 31 minutes East 333.85 feet to a stake;

(2) South 5 degrees and 24 minutes West 411.89 feet to a stake at the bend of the said ditch; thence leaving said small branch or ditch South 4 degrees and 56 minutes West 498.37 feet to a stake in the center of the aforesaid Elm Bend Road; thence with the center of said Elm Bend Road five calls as follows:

(1) North 85 degrees and 34 minutes West 97.62 feet to a stake;

(2) South 86 degrees and 32 minutes West 163.75 feet to a stake;

(3) North 87 degrees and 14 minutes West 136.97 feet to a stake;

(4) North 84 degrees and 4 minutes West 85.52 feet to a stake;

(5) North 81 degrees and 44 minutes West 27.62 feet to a stake; thence leaving said Elm Bend Road North 5 degrees and 00 minutes East 215.0 feet to a point,
common corner of Lots 21, 29 and 28 of McCrary Acres; thence North 79 degrees and 32 minutes West 157.74 feet to a point, common corner of Lots 27 and 28 of said McCrary Acres; thence with the line of Lot 28, North 66 degrees and 56 minutes West 20.0 feet to a point in the old Western boundary of the Galloway tract; thence with the Western boundary of the said Galloway tract South 23 degrees and 28 minutes West 200 feet to a point in the center of the aforesaid Elm Bend Road; thence with the center of said Elm Bend Road six calls as follows:

(1) North 66 degrees and 38 minutes West 105.10 feet to a stake;
(2) North 63 degrees and 3 minutes West 101.26 feet to a stake;
(3) North 59 degrees and 27 minutes West 138.51 feet to a stake;
(4) North 55 degrees West 150.28 feet to a stake;
(5) North 51 degrees and 12 minutes West 131.14 feet to a stake;
(6) North 45 degrees and 17 minutes West 90.09 feet to the BEGINNING. Containing 35.28 acres.

Notwithstanding the above descriptions, the following described lands are excluded from the corporate limits:

Being a tract of land lying between Fisher Road and Green Acres Avenue and being more fully described as follows:

BEGINNING at the center of Bridges Creek at the center of the Southern Railway Company's right of way and runs thence down and with the center of said Bridges Creek South 35 degrees and 23 minutes East 359 feet to a point in the center of said Bridges Creek at the end of a fence; thence leaving said Bridges Creek and running with said fence South 69 degrees and 39 minutes West 212 feet to an iron pipe, corner of Green Acres Subdivision; thence with the line of said Green Acres Subdivision two calls as follows:

(1) South 80 degrees West 226 feet;
(2) South 3 degrees and 45 minutes East approximately 615 feet to a point located 3960 feet from the Transylvania County Courthouse; thence in a northwest direction along a curved line which is at all points located 3960 feet from the aforesaid Transylvania County Courthouse for a distance of approximately 265 feet to a point located 150 feet east of the center of Fisher Road; thence North 2 degrees and 30 minutes East along a line parallel with and 150 feet east of the center of said Fisher Road for a distance of approximately 748 feet to the center of the aforesaid Southern Railway Company's right of way; thence with the center of the said Southern Railway Company's right of way North 57 degrees East approximately 500 feet to the Beginning. Containing 6.4 acres.

(b) Whenever the corporate boundaries of the City are altered in accordance with law, such changes in the corporate boundaries shall be indicated by appropriate additions to the official map or description of the boundaries of the City, to be maintained in the office of the City Clerk.

"ARTICLE II.

"Mayor and City Council.

"Sec. 2.1. Governing Body. The Mayor and City Council, elected and constituted as herein set forth, shall be the governing body of the City. On behalf of the City, and in conformity with applicable laws, the Mayor and Council may provide for the exercise of all municipal powers, and shall be charged with the general government of the City.
"Sec. 2.2. Mayor; Term of Office; Duties. The Mayor shall be elected by and from the qualified voters of the City for a term of two years, in the manner provided by Article III of this Charter; provided, the Mayor shall serve until his successor is elected and qualified. The Mayor shall be the official head of the City government, shall preside at all meetings of the City Council, and shall have the powers and duties of Mayor as prescribed by this Charter and the General Statutes. The Mayor shall have the right to vote on matters before the Council only where there are an equal number of votes in the affirmative and in the negative.

"Sec. 2.3. City Council; Terms of Office. The City Council shall be composed of five members, each of whom shall be elected for terms of four years, in the manner provided by Article III of this Charter; provided Council members shall serve until their successors are elected and qualified.

"Sec. 2.4. Mayor Pro Tempore. In accordance with applicable State laws, the City Council shall appoint one of its members to act as Mayor pro tempore to perform the duties of the Mayor in the Mayor's absence or disability. The Mayor pro tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Council.

"Sec. 2.5. Meetings of the Council. In accordance with applicable State laws, the Council shall establish a suitable time and place for its regular meetings. Special meetings may be held according to applicable provisions of the General Statutes.

"Sec. 2.6. Vacancies. In the event a vacancy occurs in the office of the Mayor, the City Council may by majority vote fill it for the remainder of the term. In the event a vacancy in the office of Councilman occurs during the final two years of a regular term, the remaining members of the Council may by majority vote fill it for the remainder of the term. In the event a vacancy in the office of Councilman occurs during the first two years of a regular term, the remaining members of the Council may by majority vote fill it until the next election, at which it shall be filled by the voters for the remaining two years of the term.

"ARTICLE III.

"Elections.

"Sec. 3.1. Regular Municipal Elections; Conduct. Regular municipal elections shall be held in the City every two years in odd-numbered years, and shall be conducted in accordance with the uniform municipal election laws of North Carolina. The Mayor and members of the Council shall be elected according to the nonpartisan plurality method.

"Sec. 3.2. Election of the Mayor. At the regular municipal election in 1981, and every two years thereafter, there shall be elected a Mayor to serve a term of two years. The Mayor shall be elected by the qualified voters of the City voting at large.

"Sec. 3.3. Election of Council Members. At the regular municipal election in 1981, and every four years thereafter, there shall be elected two Council members to serve terms of four years each, to fill the seats of those members whose terms are then expiring. At the regular municipal election in 1983 and every four years thereafter, there shall be elected three Council members to serve terms of four years each, to fill the seats of those members whose terms are then expiring.

"ARTICLE IV.

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"Organization and Administration."

"Sec. 4.1. Form of Government. The City shall operate under the Council-Manager form of government, in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Sec. 4.2. City Manager. The City Council shall appoint a City Manager who shall be the administrative head of the City government, and who shall be responsible to the Council for the proper administration of the affairs of the City. The City Manager shall hold office at the pleasure of the City Council, and shall receive such compensation as the Council shall determine.

"Sec. 4.3. City Attorney. The City Council shall appoint a City Attorney who shall be licensed to engage in the practice of law in the State of North Carolina. It shall be the duty of the City Attorney to prosecute and defend suits against the City; to advise the Mayor, City Council and other City officials with respect to the affairs of the City; to draft all legal documents relating to the affairs of the City; to inspect and pass upon all agreements, contracts, franchises and other instruments with which the City may be concerned; to attend meetings of the City Council; and to perform other duties required by law or as the Council may direct. The City Attorney shall receive such compensation as the Council shall determine.

"Sec. 4.4. City Clerk. The City Council shall appoint a City Clerk to keep a journal of the proceedings of the Council, to maintain in a safe place all records and documents pertaining to the affairs of the City, and to perform such other duties as may be required by law or as the City Council may direct. The City Clerk shall receive such compensation as the Council shall determine.

"Sec. 4.5. City Finance Officer. The City Manager shall appoint a Finance Officer to perform the duties of the Finance Officer as required by the Local Government Budget and Fiscal Control Act.

"Sec. 4.6. City Tax Collector. The City Council shall appoint a Tax Collector to collect all taxes, licenses, fees and other revenues accruing to the City, subject to the General Statutes, the provisions of this Charter and the ordinances of the City. The Tax Collector shall diligently comply with and enforce all the laws of North Carolina relating to the collection of taxes and other revenues by municipalities.

"Sec. 4.7. Consolidation of Functions. The City Council may provide for the consolidation of any two or more positions of City Manager, City Clerk, Tax Collector and Finance Officer, or may assign the functions of any one or more of these positions to the holder or holders of any other of these positions, subject to the Local Government Budget and Fiscal Control Act.

"Sec. 4.8. Other Administrative Officers and Employees. Consistent with applicable State laws, the Manager and City Council may establish other positions, provide for the appointment of other administrative officers and employees, and generally organize the City government in order to promote the orderly and efficient administration of the affairs of the City.

"ARTICLE V.

"Public Improvements."

"Sec. 5.1. Assessments for Street and Sidewalk Improvements; Petition Unnecessary. (a) In addition to any authority which is now or hereafter may be granted by general law to the City for making street improvements, the City Council is hereby authorized to make street improvements and to assess the
cost thereof against abutting property owners in accordance with the provisions of this section.

(b) The City Council may order street improvements and assess the total cost thereof against the abutting property owners, exclusive of the cost incurred at street intersections, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes without the necessity of a petition, upon the finding by the Council as a fact:

(1) That the street improvement project does not exceed 2,000 linear feet; and
(2) That such street or part thereof is unsafe for vehicular traffic, and it is in the public interest to make such improvements; or
(3) That it is in the public interest to connect two streets, or portions of a street already improved; or
(4) That it is in the public interest to widen a street, or part thereof, which is already improved, provided that assessments for widening any street or portion of street without a petition shall be limited to the cost of widening and otherwise improving such streets in accordance with the street classification and improvement standards established by the City’s thoroughfare or major street plan for the particular street or part thereof to be widened and improved under the authority granted by this Article.

c) For the purpose of this Article, the term ‘street improvement’ shall include grading, regrading, surfacing, resurfacing, widening, paving, repaving, the acquisition of right-of-way, and the construction or reconstruction of curbs, gutters and street drainage facilities.

(d) In addition to any authority which is now or may hereafter be granted by general law to the City for making sidewalk improvements, the Council is hereby authorized without the necessity of a petition, to make or to order to be made sidewalk improvements or repairs according to standards and specifications of the City, and to assess the total cost thereof against abutting property owners, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes; provided however, that regardless of the assessment basis or bases employed, the City Council may order the cost of sidewalk improvements made only on one side of a street to be assessed against property owners abutting both sides of such street.

e) In ordering street and sidewalk improvements without a petition and assessing the cost thereof under authority of this Article, the Council shall comply with the procedure provided by Article 10, Chapter 160A of the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.

(f) The effect of the act of levying assessments under the authority of this Article shall for all purposes be the same as if the assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes.

“Sec. 5.2. Power of Eminent Domain. The procedures provided in Article 9 of Chapter 136 of the General Statutes, as specifically authorized by G.S. 136-66.3(c), shall be applicable to the City in the case of acquisition of lands, easements, privileges, rights-of-way and other interests in real property for streets, sewer lines, storm drains, water lines, electric power lines, and other utility lines in the exercise of the power of eminent domain. The City, when
seeking to acquire such property or rights or easements therein or thereto, shall have the right and authority, at its option and election, to use the provisions and procedures as authorized and provided in G.S. 136-66(c) and Article 9 of Chapter 136 of the General Statutes for any of such purposes without being limited to streets constituting a part of the State Highway system; provided, however, that the provisions of this section shall not apply with regard to properties owned by public service corporations as defined in G.S. 160A-243(c), unless (1) the exercise of such power of eminent domain is either consented to by the owner of the property to be acquired by the City or (2) it is first adjudicated after notice and a hearing that such acquisition will not prevent or unreasonably impair the continued devotion to the public use of such properties and the operation by such public service corporation.

"ARTICLE VI.

"Special Provisions.

"Sec. 6.1. Police Officers' Jurisdiction. Law enforcement officers of the City of Brevard are hereby authorized and empowered to make arrests within a radius of three miles of the corporate limits of said City for the violation of any law or ordinance or the commission of any crime within the corporate limits of said City.

"Sec. 6.3. Alcoholic Beverage Control. (a) The City Council of the City of Brevard may on its own motion, and shall upon a petition to said Council, signed by at least fifteen percent (15%) of the registered and qualified voters of the City of Brevard, order an election to be held on the question of whether or not a City Alcoholic Beverage Control Store may be operated in the City of Brevard, and if a majority of the votes cast in such election shall be for the operation of such a store, it shall be legal for an Alcoholic Beverage Control Store to be set up and operated in the City of Brevard, but if a majority of the votes cast in said election shall be against the operation of said Alcoholic Beverage Control Store, no such store shall be set up or operated in the City of Brevard under the provisions of this section.

(b) The City Council of the City of Brevard may submit the question hereinabove mentioned and call a special election for the purpose of submitting said question on or after June 3, 1967. In the event said special election is called, the same shall be held and conducted on the date fixed by the City Council of the City of Brevard. A new registration of voters for such election shall not be necessary and all qualified voters who are properly registered prior to registration for the election and those who register in said Alcoholic Beverage Control election shall be entitled to vote in said election. In said election a ballot shall be used upon which shall be printed on separate lines for each proposition, 'For a City Alcoholic Beverage Control Store', 'Against a City Alcoholic Beverage Control Store'. Those favoring setting up and operating an Alcoholic Beverage Control Store in the City of Brevard shall mark in the voting square to the left of the words, 'For a City Alcoholic Beverage Control Store', printed on the ballot and those opposed to a City Alcoholic Beverage Control Store shall mark in the voting square to the left of the words 'Against a City Alcoholic Beverage Control Store'. Except as otherwise provided herein, if a special election is called, the special election authorized shall be conducted under the same statutes, rules and regulations applicable to general elections for the City Council of the City of Brevard, and the cost thereof shall be paid from the general fund of the City of Brevard.
(c) If a subsequent election shall be held and at such election a majority of the votes shall be cast 'Against a City Alcoholic Beverage Control Store', the City Alcoholic Beverage Control Board shall within three months from the canvassing of such votes and the declaration of the results thereof close said store and shall thereafter cease to operate the same, and within said three months the City Alcoholic Beverage Control Board shall dispose of all alcoholic beverages on hand, all fixtures and all other property in the hands and under the control of said Board and convert the same into cash and turn the same over to the City Treasurer. Thereafter, all public, public-local and private laws applicable to the sale of intoxicating beverages within said City of Brevard in force and effect prior to the authorization to operate a City Alcoholic Beverage Control Store shall be in full force and effect the same as if such election had not been held, and until and unless another election is held under the provisions of this section in which a majority of the votes shall be cast 'For a City Alcoholic Beverage Control Store'. No election shall be called and held in the City of Brevard under the provisions of this section within three years from the holding of the last election thereunder. It shall be the duty of the City Council of the City of Brevard to order the Alcoholic Beverage Control Election on its own motion or within 60 days after a petition shall have been presented, filed and signed by at least fifteen percent (15%) of the registered and qualified voters of the City of Brevard requesting the same.

(d) If the operation of a City Alcoholic Beverage Control Store is authorized under the provisions of this section, the City Council of the City of Brevard shall immediately create a City Board of Alcoholic Beverage Control to be composed of a chairman and two other members who shall be well known for their character, ability and business acumen. Said Board shall be known and designated as 'The City of Brevard Board of Alcoholic Beverage Control'. The members and chairman of said Board shall be appointed by the governing body of the City and the member designated as chairman shall serve for his first term a period of three years. As to the other members, one member shall serve for his first term a period of two years, and the other member shall serve for his first term a period of one year; and all terms shall begin with the date of their appointment. Thereafter, as the terms of the chairman and members expire, their successors in office shall serve for terms of three years each, and until their successors are appointed and qualified. The Mayor and City Council shall annually appoint one member of the Board of Alcoholic Beverage Control to serve as chairman at the pleasure of the Council. Any vacancy shall be filled by the Mayor and City Council for the unexpired term. Compensation of the members of said Board of Alcoholic Beverage Control shall be fixed by the City Council of the City of Brevard. To be eligible for appointment, or to serve on the Board, a person must be a resident of the City of Brevard and whenever a member ceases to reside in the City, the City Council shall declare the seat of that member vacant and proceed to fill the vacancy. No member may serve more than two consecutive full terms on the Board; provided this requirement shall not apply to any member on the Board as of January 1, 1981.

(e) The said City of Brevard Board of Alcoholic Beverage Control shall have all of the powers and duties imposed by G.S. Chapter 18A on County Boards of Alcoholic Beverage Control and shall be subject to the powers and authority of the State Board of Alcoholic Beverage Control the same as County Boards of Alcoholic Beverage Control as provided in G.S. Chapter 18A. The said City of
Brevard Board of Alcoholic Beverage Control Store authorized under the provisions of this section shall be subject to and in pursuance with the provisions of Chapter 18A of the General Statutes of North Carolina except to the extent which the same may be in conflict with the provisions of this section. Wherever the word 'County' Board of Alcoholic Beverage Control appears in said Article, it shall include the City of Brevard Board of Alcoholic Beverage Control. The City of Brevard Board of Alcoholic Beverage Control shall have authority to employ legal counsel and such other employees as it may deem wise, and fix their compensation.

(f) Out of the profits derived from the operation of said Alcoholic Beverage Control Store, after the payment of all costs and operating expenses, and after obtaining sufficient and proper working capital, the amount thereof to be approved by the City Council of Brevard, the Board shall further expend an amount of not more than ten percent (10%) of the resulting profits for law enforcement purposes, and in its discretion an amount not in excess of five percent (5%) for education as to the effects of the use of alcoholic beverages and the rehabilitation of alcoholics, said amounts to be determined by quarterly audits. These amounts shall supplement and not supplant the amount usually budgeted for such purposes by the City of Brevard. In the expenditure of said funds, the City Board of Alcoholic Beverage Control may employ one or more persons as law enforcement officer or officers to be appointed by and directly responsible to the said Board. The person or persons so appointed shall, after taking the oath prescribed by law for peace officers, have the same powers and authorities within Transylvania County as other peace officers. And any such person or persons so appointed, or any other peace officer while in hot pursuit of anyone found to be violating the prohibition laws of this State, shall have the right to go into any other county of the State and arrest such defendant therein so long as such hot pursuit of such person shall continue, and the common law of hot pursuit shall be applicable to said offenses and such officer of officers. Any law enforcement officer appointed by the said Board of Alcoholic Beverage Control and any other peace officer are hereby authorized, upon request of the sheriff or other lawful officer in any other county to go into such other county and assist in suppressing a violation of the prohibition laws therein, and while so acting shall have such powers as a peace officer as are granted to him in Transylvania County and be entitled to all the protection provided for said officer while acting in his own county.

Out of the net profits derived from the operation of said Alcoholic Beverage Control Store, the City of Brevard Board of Alcoholic Beverage Control shall, on a quarterly basis, pay over to the following named governing bodies amounts equal to the percentages of the net profits as follows:

(1) Twenty-five percent (25%) to the Board of Commissioners of Transylvania County, to be deposited to the county general fund and used for any lawful purpose for which other general fund appropriations may be used;

(2) Seventy-five percent (75%) to the City Council of the City of Brevard, to be deposited in the general fund of the City, which may be used for any lawful purpose for which other general fund expenditures may be made.

(g) In lieu of, or in addition to any other provisions of law, the Brevard Alcoholic Beverage Control Board is authorized to enter into a contract or
agreement with a local law enforcement agency to provide for enforcement of the alcoholic beverage control laws within the territorial jurisdiction of that local law enforcement agency, provided, in any agreement with local law enforcement agencies the percentage of profits to be used for law enforcement as provided in subsection (f) above shall be distributed as follows:

(1) Twenty-five percent (25%) to the Transylvania County Sheriff’s office;
(2) Seventy-five percent (75%) to the City of Brevard Police Department.”

Sec. 2. The purpose of this act is to revise the Charter of the City of Brevard and to consolidate herein certain acts concerning the property, affairs, and government of the City. It is intended to continue without interruption those provisions of prior acts which are consolidated into this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 3. This act shall not be deemed to repeal, modify, or in any manner affect any of the following acts, portions of acts, or amendments thereto, whether or not such acts, portions of acts, or amendments are expressly set forth herein:

(1) Any acts concerning the property, affairs, or government of public schools in the City of Brevard;
(2) Any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

Sec. 4. (a) The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act are hereby repealed:

Chapter 11, Public Laws, Regular Session 1860-61
Chapter 5, Private Laws of 1868 (Special Session)
Chapter 110, Private Laws of 1889
Chapter 22, Private Laws of 1891
Chapter 8, Private Laws of 1893
Chapter 291, Private Laws of 1899
Chapter 272, Public Laws of 1901
Chapter 113, Private Laws of 1903
Chapter 170, Public Laws of 1903
Chapter 221, Public Laws of 1903
Chapter 16, Private Laws of 1905
Chapter 140, Private Laws of 1906
Chapter 96, Private Laws of 1909
Chapter 285, Private Laws of 1909
Chapter 12, Private Laws of 1913
Chapter 212, Private Laws of 1913
Chapter 261, Private Laws of 1913
Chapter 428, Public-Local Laws of 1915
Chapter 53, Private Laws of 1925
Sections 2 through 5, Chapter 91, Private Laws of 1927
Chapter 92, Private Laws of 1927
Chapter 93, Private Laws of 1929
Chapter 64, Private Laws of 1931
Section 4 of Chapter 230, Public-Local Laws of 1931
Chapter 55, Private Laws of 1933
Chapter 89, Private Laws of 1933
Chapter 90, Private Laws of 1933
(b) The following acts are repealed insofar as they apply to the City of Brevard:

Chapter 198, Public-Local Laws of 1931
Chapter 475, Session Laws of 1945.

Sec. 5. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests, whether public or private:

(a) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act.

(b) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken pursuant to or within the scope of any provisions of law repealed by this act.

Sec. 6. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(1) The repeal herein of any act repealing such law, or

(2) Any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

Sec. 7. (a) All existing ordinances and resolutions of the City of Brevard and all existing rules or regulations of departments or agencies of the City of Brevard, not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified or amended.
(b) No action or proceeding of any nature, whether civil or criminal, judicial or administrative, or otherwise, pending at the effective date of this act by or against the City of Brevard or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 8. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 9. Whenever a reference is made in this act to a particular provision of the General Statutes, and such provision is later amended, repealed or superseded, the reference shall be deemed amended to refer to the amended General Statute, or to the General Statute which most clearly corresponds to the statutory provision which is repealed or superseded.

Sec. 10. G.S. 20-97(a) is amended by adding immediately after the words “Town of Stoneville” each time they appear the words “, the City of Brevard”.

Sec. 11. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of May, 1981.

H. B. 869

CHAPTER 416

AN ACT TO PERMIT JUDGES TO SET ASIDE CONVICTIONS ENTERED PURSUANT TO G.S. 20-24c(1) THROUGH c(3).

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-24 is amended by adding the following immediately after subsection c(3):

"Provided, that any conviction entered pursuant to the provisions of this subsection by reason of the defendant’s failure to submit himself to the jurisdiction of the court to answer the charge within 90 days after his failure to appear at the call of the case, may be set aside within 12 months of such entry by a judge of the General Court of Justice in the same division and same jurisdiction in which the defendant failed to appear, upon a showing by the defendant, in open court, and after 10 days’ notice to the District Attorney, that:

(1) Defendant’s failure to appear was due to his excusable neglect, or the neglect or mistake of some other party; or

(2) The conviction was entered by clerical mistake or inadvertence; and

(3) Defendant has submitted himself to the jurisdiction of the court for trial.

Upon such action setting aside a conviction, the Division of Motor Vehicles shall be notified, and shall remove that conviction from the driving record of the defendant."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of May, 1981.
H. B. 961  CHAPTER 417

AN ACT TO ALLOW DUPLIN COUNTY TO USE ALTERNATE CONDEMNATION PROCEDURES FOR CERTAIN EASEMENTS IN CONJUNCTION WITH THE LIMESTONE-MUDDY CREEK WATERSHED PROJECT.

The General Assembly of North Carolina enacts:

Section 1. In the exercise of the power of eminent domain granted to the County of Duplin by any law, public or local, the County may follow the procedures now or hereafter prescribed by said laws; provided, that in the exercise of its authority of eminent domain for the acquisition of an easement in property described in Section 2 of this act the County of Duplin is hereby authorized to use the procedure and authority prescribed in Article 9 of Chapter 136 of the General Statutes of North Carolina, as now or hereafter amended; provided, further, that all reference in Article 9 of Chapter 136 of the General Statutes to "Department of Transportation" shall be deemed to mean "County of Duplin", all reference to the "Secretary of Transportation" shall be deemed to mean "County Manager" of the County of Duplin, and all other reference, directly or by implication, to the condemning authority or persons or agencies connected therewith shall be deemed to mean the County of Duplin.

Sec. 2. (a) This act shall only apply with respect to acquisition of easements for or in connection with the clearing and snagging of Limestone or Muddy Creeks or other waters described below, such work to include clearing, snagging, disposal of debris, for or in connection with the operation, maintenance and inspection of the stream channel; and for the flowage of any waters in, over, upon or through such stream channel; and for foot travel for fishing access. The easement includes the right of ingress and egress at any time over the below described land of the grantor and any other land of the grantor adjoining said land, not to interfere with growing crops and insofar as practical to follow existing farm paths; and the grantee is responsible for operating and maintaining the works of improvement.

(b) This act shall only apply with respect to the following property, and the easement shall be appurtenant to and run with the land:

(1) Parcel No. 3 of Land Rights Map No. L-1, 100 feet in total width and the Southerly boundary of said tract being located 100 feet at all points from and normal to the center line of Limestone Creek, consisting of 1.6 acres, more or less; located in Limestone Township, Duplin County;

(2) Parcel No. 8 of Land Rights Map L-19, 100 feet in total width and the Northerly boundary of said tract being located 100 feet at all points from and normal to the center line of Limestone Creek, consisting of 5.7 acres, more or less; located in Limestone Township, Duplin County;

(3) Parcel No. 5 of Land Rights Map No. L-17, 100 feet in total width and the Westerly boundary of said tract being located 100 feet at all points from and normal to the center line of Limestone Creek, consisting of 3.3 acres, more or less; located in Limestone Township, Duplin County;

(4) Parcel No. 9 of Land Rights Map No. L-18, 100 feet in total width and the Northerly boundary of said tract being located 100 feet at all points from and normal to the center line of Limestone Creek; consisting of 3 acres, more or less; located in Smith Township, Duplin County;
(5) Parcel No. 5/6 of Land Rights Map No. M-1, being 100 and 50 feet in total width and the Southerly and Northerly boundary of said tract being located 100 feet and 50 feet at all points from and normal to the center line of Muddy Creek, consisting of 9.9 acres more or less; located in Limestone and Cypress Creek Townships, Duplin County;

(6) Parcel No. 6 of Land Rights Map No. M-2, being 25 and 55 feet in total width and the Easterly and Westerly boundary of said tract being located 25 and 55 feet at all points from and normal to the center line of Lat. M-1, Muddy Creek; consisting of 0.6 acres more or less; located in Limestone Township, Duplin County;

(7) Parcel No. 1 of Land Rights Map No. M-53, being 25 and 55 feet in total width and the Southerly and Northerly boundary of said tract being located 25 and 55 feet at all points from and normal to the center line of Lat. M-15, Muddy Creek; consisting of 2.9 acres more or less; located in Limestone Township, Duplin County; and

(8) Parcel No. 3 of Land Rights Map No. M-40, being 25 feet in total width and the Southerly boundary of said tract being located 25 feet at all points from and normal to the center line of Lat. M-18H1, Muddy Creek, consisting of 0.1 acres, more or less; located in Limestone Township, Duplin County.

c All references to Land Rights Maps in this section are to maps of the Limestone-Muddy Creek Watershed Project.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of May, 1981.

H. B. 176  CHAPTER 418

AN ACT REGARDING THE USE OF ABC LAW ENFORCEMENT FUNDS IN SCOTLAND COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding G.S. 18A-17(14), the Scotland County Board of Alcoholic Control may pay the funds currently in its Law Enforcement Reserve Fund to the Scotland County General Fund.

Sec. 2. Notwithstanding G.S. 18A-17(14), the Scotland County Board of Alcoholic Control may quarterly pay all unused funds in its Law Enforcement Reserve Fund to the Scotland County General Fund to be used for the enforcement of the Alcoholic Beverage Control Laws.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of May, 1981.
AN ACT TO AMEND THE PROVISIONS ON ACCESS TO PUBLIC ASSISTANCE AND SOCIAL SERVICES RECORDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 108A-120(e)(4) as recodified by Chapter 275 of the 1981 Session Laws is amended to read:

"(4) Prior to and during the hearing, the appellant or his personal representative shall have adequate opportunity to examine the contents of his case file for the matter pending together with those portions of other public assistance or social services case files which pertain to the appeal, and all documents and records which the county department of social services intends to use at the hearing. Those portions of the public assistance or social services case file which do not pertain to the appeal or which are required by federal statutes or regulations or by State statutes or regulations to be held confidential shall not be released to the appellant or his personal representative. In cases where the appellant has been denied access to the public assistance or social services case file the hearing officer shall certify as part of the official record that the hearing officer has examined the case files and that no portion of those files pertain to the appeal. Such certification may be subject to judicial review as provided in subsection (k) of this section. Nothing in this section is intended to restrict an applicant or recipient access to information if that access is allowed by rules or regulations promulgated pursuant to G.S. 108A-121."

Sec. 2. G.S. 108A-120(i)(1) as recodified by Chapter 275 of the 1981 Session Laws is amended to read:

"(1) Prior to and during the hearing, the appellant or his personal representative shall have adequate opportunity to examine his case file and all documents and records which the county department of social services intends to use at the hearing together with those portions of other public assistance or social services case files which pertain to the appeal. Those portions of the public assistance or social services case files which do not pertain to the appeal or which are required by federal statutes or regulations or by State statutes or regulations to be held confidential shall not be released to the appellant or his personal representative. In cases where the appellant has been denied access to portions of the public assistance or social services case file, the hearing officer shall certify as part of the official record that the hearing officer has examined the case files and that no portion of those files pertain to the appeal. Such certification may be subject to judicial review as provided in subsection (k) of this section. Nothing in this section is intended to restrict an applicant or recipient access to information if that access is allowed by rules or regulations promulgated pursuant to G.S. 108A-121."

Sec. 3. The last two sentences of G.S. 108A-120(k) as recodified by Chapter 275 of the 1981 Session Laws are deleted and the following language inserted in lieu thereof:

"The court shall, on request, examine the evidence excluded at the hearing under G.S. 108A-120(e)(4) or G.S. 108A-120(i)(1) and if the evidence was improperly excluded, the court shall consider it. Notwithstanding the foregoing provisions, the court may take testimony and examine into the facts of the case, including excluded evidence, to determine whether the appellant is entitled to public assistance under federal and State law, and under the rules and
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regulations of the Social Services Commission or the Department of Human Resources. Furthermore, the court shall set the matter for hearing within 15 days from the filing of the record under G.S. 150A-47 and after reasonable written notice to the Department of Human Resources and the appellant."

Sec. 4. G.S. 108A-121 as recodified by Chapter 275 of the 1981 Session Laws is hereby amended by adding a new subsection (d) to read as follows:

"(d) The Social Services Commission shall have the authority to adopt rules and regulations governing access to case files for social services and public assistance programs, except the Medical Assistance Program. The Secretary of the Department of Human Resources shall have the authority to adopt rules and regulations governing access to medical assistance case files."

Sec. 5. This act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 19th day of May, 1981.

H. B. 457     CHAPTER 420

AN ACT TO AMEND THE PROVISIONS FOR PUBLIC ASSISTANCE APPEALS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 108A-120(b) as recodified by Chapter 275 of the 1981 Session Laws is amended by rewriting said subsection to read as follows:

"(b) In cases involving termination or modification of assistance, no action shall become effective until 10 workdays after notice of this action and of the right to appeal is mailed or delivered by hand to the recipient; provided, however, termination or modification of assistance may be effective immediately upon the mailing or delivery of notice in the following circumstances:

(1) When the modification is beneficial to the recipient; or
(2) When federal regulations permit immediate termination or modification upon mailing or delivery of notice and the Social Services Commission or the Department of Human Resources promulgates regulations adopting said federal law or regulations. When federal and State regulations permit immediate termination or modification, the recipient shall have no right to continued assistance at the present level pending a hearing, as would otherwise be provided by subsection (d) of this section."

Sec. 2. G.S. 108A-120(d) as recodified by Chapter 275 of the 1981 Sessions Laws is amended by rewriting said subsection to read as follows:

"(d) If there is such timely appeal in cases not involving disability, in the first instance the hearing shall consist of a local appeal hearing before the county director or a designated representative of the county director, provided whoever hears the local appeal shall not have been involved directly in the initial decision giving rise to the appeal. If there is such timely appeal in cases involving disability, the county director or a designated representative of the county director shall within five days of the request for an appeal forward the request to the Department of Human Resources, and the Department shall designate a hearing officer who shall promptly hold a hearing in the county according to the provisions of subsections (i) and (j) of this section. In cases involving termination or modification of assistance (other than cases of immediate termination or modification of assistance pursuant to subsection
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(b)(2) of this section), the recipient shall continue to receive assistance at the present level pending the decision at the initial hearing, whether that be the local appeal hearing decision or, in cases involving questions of disability, the Department of Human Resources hearing decision, provided that in order to continue receiving assistance pending the initial hearing decision the recipient must request a hearing on or before the effective date of the termination or modification of assistance."

Sec. 3. G.S. 108A-120(i) as recodified by Chapter 275 of the 1981 Session Laws is amended by inserting between the words "no local hearing," and "the county director" the following language:
"or if there is an appeal of a case involving questions of disability".

Sec. 4. This act shall become effective October 1, 1981.
In the General Assembly read three times and ratified, this the 19th day of May, 1981.

H. B. 659  CHAPTER 421

AN ACT TO PROVIDE STATEWIDE WORKERS' COMPENSATION FOR DEPUTY SHERIFFS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 97-2(2) is amended by deleting from the first paragraph the words "Provided, that the third and fourth sentences herein shall not apply to Alleghany, Avery, Bladen, Carteret, Cherokee, Gates, Hyde, Pender, Perquimans, Watauga and Wilkes Counties".

Sec. 2. G.S. 97-2(3) is amended by deleting from the end thereof ": Provided, that the last two sentences herein shall not apply to Alleghany, Avery, Bladen, Carteret, Cherokee, Gates, Hyde, Pender, Perquimans, Union, Watauga and Wilkes Counties".

Sec. 3. G.S. 97-29 is amended by deleting from the end of the third paragraph thereof " provided that the last sentence herein shall not apply to Ashe, Avery, Bladen, Carteret, Caswell, Cherokee, Gates, Hyde, Macon, Pender, Perquimans, Union, Watauga and Wilkes Counties".

Sec. 4. This act shall become effective July 1, 1981, and apply to cases arising on and after that date.
In the General Assembly read three times and ratified, this the 19th day of May, 1981.

S. B. 369  CHAPTER 422

AN ACT TO PROVIDE A FIXED PAY DATE FOR PUBLIC SCHOOL EMPLOYEES OF THE KING'S MOUNTAIN AND CLEVELAND COUNTY SCHOOL ADMINISTRATIVE UNITS.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of General Statutes 115-157(1), public school employees of the Kings Mountain and Cleveland County School Administrative Units shall be paid on the last day of each month. Nothing in this act shall have the effect of changing the rate of pay for any employee of those units.

Sec. 2. This act shall become effective July 1, 1981.
In the General Assembly read three times and ratified, this the 19th day of May, 1981.

H. B. 336  CHAPTER 423
AN ACT TO RECODIFY CHAPTER 115 OF THE GENERAL STATUTES, ELEMENTARY AND SECONDARY EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 115 of the General Statutes is repealed and replaced with the following:

"Chapter 115C.
"Elementary and Secondary Education.
"SUBCHAPTER I.
"General Provisions.
"ARTICLE 1.
"Definitions and Preliminary Provisions.
"§ 115C-1. General and uniform system of schools.—A general and uniform system of free public schools shall be provided throughout the State, wherein equal opportunities shall be provided for all students, in accordance with the provisions of Article IX of the Constitution of North Carolina. Tuition shall be free of charge to all children of the State, and to every person 18 years of age, or over, who has not completed a standard high school course of study. There shall be operated in every local school administrative unit a uniform school term of nine months, without the levy of a State ad valorem tax therefor.
"§ 115C-2. Administrative procedure.—All action of agencies taken pursuant to this Chapter, as agency is defined in G.S. 150A-2, is subject to the requirements of the Administrative Procedure Act, Chapter 150A of the General Statutes.
"§ 115C-3. Access to information and public records.—Except as otherwise provided in this Chapter, access to information gathered and public records made pursuant to the provisions of this Chapter must be in conformity with the requirements of Chapter 132 of the General Statutes.
"§ 115C-4. Open meetings law.—Meetings of governmental bodies held pursuant to the provisions of this Chapter must be in conformity with the requirements of Article 33C of Chapter 143 of the General Statutes.
"§ 115C-5. Definitions.—As used in this Chapter unless the context requires otherwise:
(a) The State Board of Education may be referred to as the 'Board' or as the 'State Board.'
(b) The governing board of a city administrative unit is 'the __________ city board of education.'
(c) The governing board of a county administrative unit is 'the __________ county board of education.'
(d) The governing board of the school district is 'the __________ district committee.'
(e) 'Local board' or 'board' means a city board of education, county board of education, or a city-county board of education.
(f) 'Local school administrative unit' means a subdivision of the public school system which is governed by a local board of education. It may be a city school
administrative unit, a county school administrative unit, or a city-county school administrative unit.

(g) The executive head of a school shall be called 'principal.'

(h) The executive officer of a local school administrative unit shall be called 'superintendent.' ‘Superintendent’ means the superintendent of schools of a public school system or, in his absence, the person designated to fulfill his functions.

(i) ‘Supervisor’ means a person paid on the supervisor salary schedule who supervises the instructional program in one or more schools and is under the immediate supervision of the superintendent or his designee.

(j) The term ‘tax-levying authority’ means the board of county commissioners of the county or counties in which an administrative unit is located or such other unit of local government as may be granted by local act authority to levy taxes on behalf of a local school administrative unit.

“§ 115C-6 to 115C-9: Reserved for future codification purposes.

“SUBCHAPTER II.

“Administrative Organization of State and Local Education Agencies.

“ARTICLE 2.

“State Board of Education.

“§ 115C-10. Appointment of Board.—The State Board of Education shall consist of the Lieutenant Governor, the State Treasurer, and 11 members appointed by the Governor, subject to confirmation by the General Assembly in joint session. Of the appointive members of the State Board of Education, one shall be appointed from each of the eight educational districts and three shall be appointed as members at large. Appointments shall be for terms of eight years and shall be made in four classes. Appointments to fill vacancies shall be made by the Governor for the unexpired terms and shall not be subject to confirmation.

The Governor shall transmit to the presiding officers of the Senate and the House of Representatives, on or before the sixtieth legislative day of the General Assembly, the names of the persons appointed by him and submitted to the General Assembly for confirmation; thereafter, pursuant to joint resolution, the Senate and the House of Representatives shall meet in joint session for consideration of an action upon such appointments.

“§ 115C-11. Organization and internal procedures of Board.—(a) Presiding Officer.—The State Board of Education shall elect from its membership a chairman and vice-chairman. A majority of the Board shall constitute a quorum for the transaction of business. Per diem and expenses of the appointive members of the Board shall be provided by the General Assembly. The chairman of the Board shall preside at all meetings of the Board. In the absence of the chairman, the vice-chairman shall preside; in the absence of both the chairman and the vice-chairman, the Board shall name one of its own members as chairman pro tempore.

(b) Regular meetings of Board.—The regular meetings of the Board shall be held each month on a day certain, as determined by the Board. The Board shall determine the hour of the meeting, which may be adjourned from day to day, or to a day certain, until the business before the Board has been completed.

(c) Special Meetings.—Special meetings of the Board may be set at any regular meeting or may be called by the chairman or by the secretary upon the
approval of the chairman. Provided, a special meeting shall be called by the chairman upon the request of any five members of the Board. In case of regular meetings and special meetings, the secretary shall give notice to each member, in writing, of the time and purpose of the meeting, by letter directed to each member at his home post-office address. Such notice must be deposited in the Raleigh Post Office at least three days prior to the date of meeting.

(d) Voting.—No voting by proxy shall be permitted. Except in voting on textbook adoptions, all voting shall be viva voce unless a record vote or secret ballot is demanded by any member, and a majority of those present and voting shall be necessary to carry a motion.

(e) Voting on Adoption of Textbooks.—A majority vote of the whole membership of the Board shall be required to adopt textbooks, and a roll call vote shall be had on each motion for such adoption or adoptions. A record of all such votes shall be kept in the minute book.

(f) Committees.—The Board may create from among its membership such committees as it deems necessary to facilitate its business. The chairman of the Board shall with approval of the majority of the Board appoint members to the several committees authorized by the Board and to any additional committees which the chairman may deem to be appropriate.

(g) Record of Proceedings.—All of the proceedings of the Board shall be recorded in a well-bound and suitable book, which shall be kept in the office of the Superintendent of Public Instruction, and open to public inspection.

(h) Rules and Regulations.—The Board shall adopt reasonable rules and regulations not inconsistent herewith, to govern its proceedings which the Board may amend from time to time, which rules and regulations shall become effective when filed as provided by law: Provided, however, a motion to suspend the rules so adopted shall require a consent of two-thirds of the members. The rules and regulations shall include, but not be limited to, clearly defined procedures for electing the officers of the State Board referred to in G.S. 115C-11(a), fixing the term of said officers, specifying how the voting shall be carried out, and establishing a date when the first election shall be held.

"§ 115C-12. Powers and duties of the Board generally.—The general supervision and administration of the free public school system shall be vested in the State Board of Education. The powers and duties of the State Board of Education are defined as follows:

(1) Financial Powers.—The financial powers of the Board are set forth in Article 30 of this Chapter.

(2) Power to Divide the Administrative Units into Districts.—The Board shall have power to create in any county administrative units a convenient number of school districts, upon the recommendation of the county board of education. Such a school district may be entirely in one county or may consist of contiguous parts of two or more counties. The Board may modify the district organization in any administrative unit when it is deemed necessary for the economical and efficient administration and operation of the State school system, when requested to do so by the appropriate local board of education.

(3) Divisions of Functions of Board.—The Board shall divide its duties into two separate functions, insofar as may be practicable, as follows:

a. All those matters relating to the supervision and administration of the public school system, except the supervision and management of the fiscal affairs of the Board, shall be under the direction of the
Superintendent in his capacity as the constitutional administrative head of the public school system.

b. All those matters relating to the supervision and administration of the fiscal affairs of the public school fund committed to the administration of the State Board of Education shall be under the supervision and management of the controller.

(4) Appointment of Controller.—The Board shall appoint a controller, subject to the approval of the Governor, who shall serve at the will of the Board and who, under the direction of the Board, shall have supervision and management of the fiscal affairs of the Board.

(5) Apportionment of Funds.—The Board shall have authority to apportion and equalize over the State all State school funds and all federal funds granted to the State for assistance to educational programs administered within or sponsored by the public school system of the State.

(6) Power to Demand Refund for Inaccurate Apportionment Due to False Attendance Records.—When it shall be found by the State Board of Education that inaccurate attendance records have been filed with the State Board of Education which resulted in an excess allotment of funds for teacher salaries in any school unit in any school year, the school unit concerned may be required to refund to the State Board the amount allotted to said unit in excess of the amount an accurate attendance record would have justified.

(7) Power to Alter the Boundaries of City School Administrative Units and to Approve Agreements for the Consolidation and Merger of School Administrative Units Located in the Same County.—The Board shall have authority, in its discretion, to alter the boundaries of city school administrative units and to approve agreements submitted by county and city boards of education requesting the merger of two or more contiguous city school administrative units and the merger of city school administrative units with county school administrative units and the consolidation of all the public schools in the respective units under the administration of one board of education: Provided, that such merger of units and reorganization of school units shall not have the effect of abolishing any special taxes that may have been voted in any such units.

(8) Power to Make Provisions for Sick Leave.—The Board shall provide for a minimum of five days per school term of sick leave with pay for all public school employees and shall promulgate rules and regulations providing for necessary substitutes on account of said sick leave. The pay for a substitute shall be fixed by the Board. The Board may provide to each local school administrative unit not exceeding one percent (1%) of the cost of instructional services for the purpose of providing substitute teachers for those on sick leave as authorized by law or by regulations of the Board, but not exceeding the provisions made for other State employees.

(9) Miscellaneous Powers and Duties.—All the powers and duties exercised by the State Board of Education shall be in conformity with the Constitution and subject to such laws as may be enacted from time to time by the General Assembly. Among such duties are:

a. To certify and regulate the grade and salary of teachers and other school employees.
b. To adopt and supply textbooks.
c. To adopt a standard course of study upon recommendation of the Superintendent of Public Instruction: Provided, however, that in the event the Superintendent does not recommend a standard course of study satisfactory to the Board, the Board may cause an independent professional study to be made, with such assistance as it may deem necessary, to the end that a standard course of study appropriate to the needs of the children of the State shall be recommended to the Board for adoption; whereupon the Board shall require a public hearing to be held on the question of the adoption of the standard course of study thus proposed and it shall thereafter adopt the recommendations with such changes as the Board may deem appropriate, which shall be required as the minimal program of every public school in the State.

The standard course of study thus established shall be reviewed by the Board biennially.
d. To formulate rules and regulations for the enforcement of the compulsory attendance law.
e. To manage and operate a system of insurance for public school property, as provided in Article 38 of this Chapter.

In making substantial policy changes in administration, curriculum, or programs the Board should conduct hearings throughout the regions of the State, whenever feasible, in order that the public may be heard regarding these matters.

(10) Power to Provide for Programs or Projects in the Cultural and Fine Arts Areas.—The Board is authorized and empowered, in its discretion, to make provisions for special programs or projects of a cultural and fine arts nature for the enrichment and strengthening of educational opportunities for the children of the State.

For this purpose, the Board may use funds received from gifts or grants and, with the approval of the Director of the Budget, may use State funds which the Board may find available in any budget administered by the Board.

(11) Power to Conduct Education Research.—The Board is authorized to sponsor or conduct education research and special school projects considered important by the Board for improving the public schools of the State. Such research or projects may be conducted during the summer months and involve one or more local school units as the Board may determine. The Board may use any available funds for such purposes.

(12) Duty to Provide for Sports Medicine and Emergency Paramedical Program.—The State Board of Education is authorized and directed to develop a comprehensive plan to train and make available to the public schools personnel who shall have major responsibility for exercising preventive measures against sports related deaths and injuries and for providing sports medicine and emergency paramedical services for injuries that occur in school related activities. The plan shall include, but is not limited to, the training, assignment of responsibilities, and appropriate additional reimbursement for individuals participating in the program.

The State Board of Education is authorized and directed to develop an implementation schedule and a program funding formula that will enable each high school to have a qualified sports medicine and emergency paramedical program by July 1, 1984.
The State Board of Education is authorized and directed to establish minimum educational standards necessary to enable individuals serving as sports, medicine and emergency paramedical staff to provide such services, including first aid and emergency life saving skills, to students participating in school activities.

(13) Power to Purchase Liability Insurance.—The Board is authorized to purchase insurance to protect board members from liability incurred in the exercise of their duty as members of the Board.

(14) Duty to Provide Personnel Information to Local Boards.—Upon request, the State Board of Education and the Department of Public Instruction shall furnish to any county or city board of education any and all available personnel information relating to certification, evaluation and qualification including, but not limited to, semester hours or quarterly hours completed, graduate work, grades, scores, etc., that are on that date in the files of the State Board of Education or Department of Public Instruction.

(15) Duty to Develop Noncertified Personnel Position Evaluation Descriptions.—The Board is authorized and directed to develop position evaluation descriptions covering those positions in local school administrative units for which certification by the State Board of Education is not normally a prerequisite. The position evaluation descriptions required in this subdivision are to be used by local boards of education as the basis for assignment of noncertified employees to an appropriate pay grade in accordance with salary grades and ranges adopted by the State Board of Education. No appropriations are required by this subdivision.

(16) Power with Regard to Salary Schedules.
   a. Support personnel refers to all public school employees who are not required by statute or regulation to be certified in order to be employed. The State Board of Education is authorized and empowered to adopt all necessary rules for full implementation of all schedules to the extent that State funds are made available for support personnel.
   b. Salary schedules for the following public school support personnel shall be adopted by the State Board of Education: school finance officer, office support personnel, property and cost clerks, aides, maintenance supervisors, custodial personnel, and transportation personnel. The Board shall classify these support positions in terms of uniform pay grades included in the salary schedule of the State Personnel Commission.
   c. Salary schedules for other support personnel, including but not limited to maintenance and school food service personnel, shall be adopted by the State Board of Education. The Board shall classify these support positions in terms of uniform pay grades included in the salary schedule of the State Personnel Commission. These schedules shall apply if the local board of education does not adopt a salary schedule of its own for personnel paid from other than State appropriations.

"§§ 115C-13 to 115C-17: Reserved for future codification purposes.

"ARTICLE 3.

"Department of Public Instruction.

"§ 115C-18. Election of Superintendent of Public Instruction.—The Superintendent of Public Instruction shall be elected by the qualified voters of the State in 1972 and every four years thereafter at the same time and places as
members of the General Assembly are elected. His term of office shall be four
years and shall commence on the first day of January next after election and
continue until his successor is elected and qualified.

If the office of the Superintendent of Public Instruction is vacated by death,
resignation, or otherwise, it shall be the duty of the Governor to appoint
another to serve until his successor is elected and qualified. Every such vacancy
shall be filled by election at the first election for members of the General
Assembly that occurs more than 30 days after the vacancy has taken place, and
the person chosen shall hold the office for the remainder of the unexpired term
fixed in Article III, Section 7 of the Constitution of North Carolina. When a
vacancy occurs in the office and the term expires on the first day of January
succeeding the next election for members of the General Assembly, the
Governor shall appoint to fill the vacancy for the unexpired term of the office.
Upon the occurrence of a vacancy in the office for any of the causes stated
herein, the Governor may appoint an interim officer to perform the duties of
that office until a person is appointed or elected pursuant to Article III, Section
7 of the Constitution of North Carolina to fill the vacancy and is qualified.

The time of the election of the Superintendent of Public Instruction shall be
in accordance with the provisions of Article I of Subchapter I of Chapter 163 of
the General Statutes.

The election, term and induction into office of the Superintendent of Public
Instruction shall be in accordance with the provisions of G.S. 147-4.

"§ 115C-19. Chief administrative officer of the State Board of Education.—As
provided in Article IX, Section 4(2) of the North Carolina Constitution, the
Superintendent of Public Instruction shall be the secretary and chief
administrative officer of the State Board of Education.

"§ 115C-20. Office and salary.—The Superintendent of Public Instruction
shall keep his office in The Education Building in Raleigh, and his salary shall
be the same as for Court of Appeals Judges as set by the General Assembly in
the Budget Appropriation Act.

"§ 115C-21. Powers and duties generally.—(a) Administrative Duties.—It
shall be the duty of the Superintendent of Public Instruction:

(1) To organize and establish, subject to the approval of the State Board of
Education, a Department of Public Instruction which shall include such
divisions and departments as are necessary for supervision and
administration of the public school system. All appointments of
administrative and supervisory personnel to the staff of the
Department of Public Instruction shall be subject to the approval of the
State Board of Education, which shall have authority to terminate such
appointments for cause in conformity with Chapter 126 of the General
Statutes, the State Personnel System.

(2) To keep the public informed as to the problems and needs of the public
schools by constant contact with all school administrators and teachers,
by his personal appearance at public gatherings, and by information
furnished to the press of the State.

(3) To report biennially to the Governor 30 days prior to each regular
session of the General Assembly, such report to include information and
statistics of the public schools, with recommendations for their
improvement and for such changes in the school law as shall occur to
him.
(4) To have printed and distributed such educational bulletins as he shall deem necessary for the professional improvement of teachers and for the cultivation of public sentiment for public education, and to have printed all forms necessary and proper for the administration of the Department of Public Instruction.

(5) To have under his direction, in his capacity as the constitutional administrative head of the public school system, all those matters relating to the supervision and administration of the public school system, except the supervision and management of the fiscal affairs of the Board.

(b) Duties as Secretary to the State Board of Education.—As secretary, under the direction of the Board, it shall be the duty of the Superintendent of Public Instruction:

1. To administer through the Department of Public Instruction the instructional policies established by the Board.

2. To keep the Board informed regarding developments in the field of public education.

3. To make recommendations to the Board with regard to the problems and needs of education in North Carolina.

4. To make available to the public schools a continuous program of comprehensive supervisory services.

5. To collect and organize information regarding the public schools, on the basis of which he shall furnish the Board such tabulations and reports as may be required by the Board.

6. To communicate to the public school administrators all information and instructions regarding instructional policies and procedures adopted by the Board.

7. To have custody of the official seal of the Board and to attest all deeds, leases, or written contracts executed in the name of the Board. All deeds of conveyance, leases, and contracts affecting real estate, title to which is held by the Board, and all contracts of the Board required to be in writing and under seal, shall be executed in the name of the Board by the chairman and attested by the secretary; and proof of the execution, if required or desired, may be had as provided by law for the proof of corporate instruments.

8. To attend all meetings of the Board and to keep the minutes of the proceedings of the Board in a well-bound and suitable book, which minutes shall be approved by the Board prior to its adjournment; and, as soon thereafter as possible, to furnish to each member of the Board and the controller a copy of said minutes.

9. To perform such other duties as the Board may assign to him from time to time.

"§§ 115C-22 to 115C-26: Reserved for future codification purposes.

"ARTICLE 4.

"Office of the Controller.

"§ 115C-27. Appointment of controller, salary.—The Board shall appoint a controller, subject to the approval of the Governor, who shall serve at the will of the Board. The salary of the controller shall be fixed by the Governor subject to the approval of the Advisory Budget Commission and shall be paid from Board appropriations.
“§ 115C-28. Fiscal affairs of the Board defined.—All matters pertaining to the budgeting, allocation, accounting, auditing, certification, and disbursing of public school funds, now or hereafter committed to the administration of the State Board of Education, are included within the meaning of the term 'fiscal affairs of the Board' and, under the direction of the Board, shall be supervised and managed by the controller. The fiscal affairs of the Board shall also include:

1. The preparation and administration of the State school budget, including all funds appropriated for the maintenance of the public school term.
2. The allotment of teachers.
3. The protection of State funds by appropriate bonds.
4. Workers' compensation as applicable to school employees.
5. Sick leave.
6. The administration of such federal funds as may be made available by acts of Congress for the use of public schools.
7. Administration of all State funds derived from the sale and rental of textbooks in the public schools.
8. The operation of plant, and other auxiliary agencies under the administration of the Board.
10. All fiscal matters embraced in the objects of expenditure referred to in current acts of the General Assembly appropriating funds for the system of free public schools.

“§ 115C-29. Controller's powers and duties generally.—(a) The controller is constituted the executive administrator of the Board in the supervision and management of the fiscal affairs of the Board. In this capacity it shall be his duty, under the direction of the Board, to administer the funds provided for the operation of the schools of the State on such standards as may be determined by the Board and always within the total funds appropriated therefor.

(b) The controller, under the direction of the Board, shall perform the following duties:

1. He shall maintain a record or system of bookkeeping which shall reflect at all times the status of all educational funds committed to the administration of the Board and particularly the following:
   a. State appropriation for maintenance of the public school term, which shall include all the objects of expenditure enumerated in G.S. 115C-426.
   b. State appropriation and any other funds provided for the purchase and rental of public school textbooks.
   c. State literary and building funds and such other building funds as may be hereafter provided by the General Assembly for loans, or grants, to local boards of education for school building purposes.
   d. State and federal funds for vocational education and other funds as may be provided by act of Congress for assistance to the educational program.
   e. State appropriation for the maintenance of the Board and its office personnel and including all employees serving under the Board.
   f. Any miscellaneous funds within the jurisdiction of the Board not included in the above.

2. He shall prepare all forms and questionnaires necessary to furnish information and data for the consideration of the Board in preparing
the State budget estimates required to be determined by the Board as to each local school administrative unit.

(3) He shall certify to each local school administrative unit the teacher allotment as determined by the Board under G.S. 115C-301. The superintendent of the administrative units shall then certify to the Superintendent the names of the persons employed as teachers and principals by districts. The Superintendent shall then determine the certificate ratings of the teachers and principals, shall certify such ratings to the controller, who shall then determine in accordance with the State standard salary schedule for teachers and principals, the salary rating of each person so certified. The controller shall then determine, in accordance with the schedule of salaries established, the total cost of salaries in each local school administrative unit for teachers and principals to be included in the State budget for the current fiscal year.

(4) He shall satisfy himself before issuing any requisition upon the Department of Administration for payment out of the State Treasury of any funds placed to the credit of any local school administrative unit, under the provisions of G.S. 115C-438:

a. That funds are lawfully available for the payment of such requisition; and

b. Where the order covers salary payment to any employee that the amount thereof is within the salary schedule or salary rating of the particular employee.

(5) He shall procure, through the Department of Administration, contracts for the purchase of the estimated needs and requirements of the several local school administrative units, covering the items of janitor supplies, instructional supplies, supplies used by the State Board of Education, and all other supplies, the payment for which is made from funds committed to the administration of the Board.

(6) He shall purchase from the various publishers the textbooks needed and required in the public schools in accordance with contracts made by the State Board of Education.

(7) He shall, in cooperation with the State Auditor, cause to be made an annual audit of the State school funds disbursed by local school administrative units and all other funds which by law are committed to the administration of the Board.

(8) He shall attend all meetings of the Board and shall furnish all such information and data concerning the fiscal affairs of the Board as the Board may require.

(9) He shall employ all necessary administrative and supervisory employees who work under his direction in the administration of the fiscal affairs of the Board, subject to the approval of the State Board of Education, which shall have authority to terminate such appointments for cause in conformity with Chapter 126 of the General Statutes, the State Personnel System.

(10) He shall report directly to the Board upon all matters coming within his supervision and management.
(11) He shall furnish to the Superintendent such information relating to fiscal affairs as may be necessary in the administration of his official duties.

(12) He shall perform such other duties as may be assigned to him by the Board from time to time.

"§§ 115C-30 to 115C-34: Reserved for future codification purposes.

"ARTICLE 5.

"Local Boards of Education.

"§ 115C-35. How constituted.—(a) The county board of education in each county shall consist of five members elected by the voters of the county at large for terms of four years: Provided, that where there are multiple local school administrative units located within the county, and unless the county board is responsible for appointing members of the board of education of a city administrative unit located within the county, only those voters who reside within the county school administrative unit boundary lines shall be eligible to vote for members of the county board of education. Where the county board is responsible for appointing members of the board of education of a city administrative unit located within the county, the voters residing within that city school administrative unit shall be eligible to vote for members of the county board of education.

The terms of office of the members of boards of education of all school administrative units in this State, who serve on June 25, 1975, shall continue until members are elected and qualified as provided in this section unless modified by local legislation.

(b) No person residing in a local school administrative unit shall be eligible for election to the board of education of that local school administrative unit unless such person resides within the boundary lines of that local school administrative unit.

"§ 115C-36. Designation of Board.—All powers and duties conferred and imposed by law respecting public schools, which are not expressly conferred and imposed upon some other official, are conferred and imposed upon local boards of education. Said boards of education shall have general control and supervision of all matters pertaining to the public schools in their respective administrative units and they shall enforce the school law in their respective units.

"§ 115C-37. Election of board members.—(a) Method of Election.—The county boards of education shall be elected on a nonpartisan basis at the time of the primary election in 1970 and biennially thereafter. The names of the candidates shall be printed on the ballots without reference to any party affiliation and any qualified voter residing in the county shall be entitled to vote such ballots. Except as otherwise provided herein, the election shall be conducted according to the provisions of Chapter 163 of the General Statutes then governing primary elections.

The terms of office of the members shall be staggered so as nearly equal to one half as possible shall expire every two years.

(b) County Board of Elections to Provide for Elections.—The county board of elections under the direction of the State Board of Elections, shall make all necessary provisions for elections of county boards of education as are herein provided for. The county board of elections of each county shall file with the
State Board of Elections a statement specifying the size and method of election of members of its county board of education.

(c) City Board of Education.—The board of education for any city administrative unit shall be appointed or elected as now provided by law. If no provision is now made by the law for the filling of vacancies in the membership of any city board of education, such vacancy may be filled by the governing body of the city or town embraced by said administrative unit. In the event that any such vacancy is not filled in this manner within 30 days, the State Board of Education may fill such vacancy.

(d) Members to Qualify.—Those persons who shall be elected members of the county boards of education must qualify by taking the oath of office on or before the first Monday in December next succeeding their election. A failure to qualify within that time shall constitute a vacancy which shall be filled as set out in subsection (f) of this section. Those persons appointed to fill a vacancy must qualify within 30 days after notification. A failure to qualify within that time shall constitute a vacancy.

This subsection shall not have the effect of repealing any local or special acts relating to boards of education of any particular counties whose membership to said boards is chosen by a vote of the people.

(e) Vacancies in Nominations for Membership on County Boards.—If any candidate nominated on a partisan basis shall die, resign, or for any reason become ineligible or disqualified between the date of his nomination and the time for the election, such vacancy caused thereby may be filled by the actions of the county executive committee of the political party of such candidate.

(f) Vacancies in Office.—All vacancies in the membership of the boards of education whose members are elected pursuant to the provisions of subsection (a) of this section by death, resignation, or other causes shall be filled by appointment by the remaining members of the board, of a person to serve until the next election of members of such board, at which time the remaining unexpired term of the office in which the vacancy occurs shall be filled by election.

(g) Eligibility for Board Membership; Holding Other Offices.—Any person possessing the qualifications for election to public office set forth in Article VI, Section 6 of the Constitution of North Carolina shall be eligible to serve as a member of a local board of education: Provided, however, that any person elected or appointed to a local board of education, and also employed by that board of education or appointed to a district committee by that board of education, shall resign his employment before taking office as a member of that board of education.

Membership on a board of education is hereby declared to be an office that, with the exceptions provided above, may be held concurrently with any appointive office, pursuant to Article VI, Section 9 of the Constitution, but any person holding an elective office shall not be eligible to serve as a member of a local board of education.

“§ 115C-38. Compensation of board members.—The tax-levying authority for a local school administrative unit may, under the procedures of G.S. 153A-92, fix the compensation and expense allowances paid members of the board of education of that local school administrative unit.
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Funds for the per diem, subsistence, and mileage for all meetings of county and city boards of education shall be provided from the current expense fund budget of the particular county or city.

The compensation and expense allowances of members of boards of education shall continue at the same levels as paid on July 1, 1975, until changed by or pursuant to local act or pursuant to this section.

“§ 115C-39. Removal of board members.—In case the Superintendent of Public Instruction shall have sufficient evidence that any member of a local board of education is not capable of discharging, or is not discharging, the duties of his office as required by law, or is guilty of immoral or disreputable conduct, he shall notify the chairman of such board of education, unless such chairman is the offending member, in which case all other members of such board shall be notified. Upon receipt of such notice there shall be a meeting of said board of education for the purpose of investigating the charges, and if the charges are found to be true, such board shall declare the office vacant: Provided, that the offending member shall be given proper notice of the hearing and that record of the findings of the other members shall be recorded in the minutes of such board of education.

“§ 115C-40. Board a body corporate.—The board of education of each county in the State shall be a body corporate by the name and style of ‘The ________ County Board of Education’, and the board of education of each city administrative school unit in the State shall be a body corporate by the name and style of ‘The ________ City Board of Education’. The several boards of education, both county and city, shall hold all school property and be capable of purchasing and holding real and personal property, of building and repairing schoolhouses, of selling and transferring the same for school purposes, and of prosecuting and defending suits for or against the corporation.

Where there is public school property now in the possession of school committees who were bodies corporate prior to January 1, 1900, or who became bodies corporate by special act of the General Assembly but who have since ceased to be bodies corporate; and where land was conveyed by deed bearing date prior to January 1, 1900, to local trustees for school purposes, and such deed makes no provision for successor trustees to those named in said deed, and all of such trustees are dead; and where such land is not now being used for educational purposes by the board of the local school administrative unit wherein such land is located, the clerk of the superior court of the county wherein such property or such land is located shall convey said property or land to the board of education of the local school administrative unit in which the land is located.

Local boards of education, subject to any paramount powers vested by law in the State Board of Education or any other authorized agency shall have general control and supervision of all matters pertaining to the public schools in their respective local school administrative units; they shall execute the school laws in their units; and shall have authority to make agreements with other boards of education to transfer pupils from one local school administrative unit to another unit when the administration of the schools can be thereby more efficiently and more economically accomplished.

“§ 115C-41. Organization of board.—(a) At the first meeting of the new county board in April, the members of all boards shall organize by electing one of their members as chairman for a period of one year, or until his successor is elected
and qualified. The chairman of the county board of education shall preside at
the meetings of the board, and in the event of his absence or sickness, the board
may appoint one of its members temporary chairman. The superintendent of
schools, whether a county or city superintendent, shall be ex officio secretary to
his respective board. He shall keep the minutes of the meetings of the board but
shall have no vote; Provided, that in the event of a vacancy in the
superintendency, the board may elect one of its members to serve temporarily
as secretary to the board.

(b) All local boards of education shall meet on the first Monday in January,
April, July, and October of each year, or as soon thereafter as practicable. A
board may elect to hold regular monthly meetings, and to meet in special
session upon the call of the chairman or of the secretary as often as the school
business of the local school administrative unit may require.

“§115C-42. Liability insurance and immunity.—Any local board of
education, by securing liability insurance as hereinafter provided, is hereby
authorized and empowered to waive its governmental immunity from liability
for damage by reason of death or injury to person or property caused by the
negligence or tort of any agent or employee of such board of education when
acting within the scope of his authority or within the course of his employment.
Such immunity shall be deemed to have been waived by the act of obtaining
such insurance, but such immunity is waived only to the extent that said board
of education is indemnified by insurance for such negligence or tort.

Any contract of insurance purchased pursuant to this section must be issued
by a company or corporation duly licensed and authorized to execute insurance
contracts in this State and must by its terms adequately insure the local board
of education against any and all liability for any damages by reason of death or
injury to person or property proximately caused by the negligent acts or torts of
the agents and employees of said board of education or the agents and
employees of a particular school in a local administrative unit when acting
within the scope of their authority or within the course of their employment.
Any company or corporation which enters into a contract of insurance as above
described with a local board of education, by such act waives any defense based
upon the governmental immunity of such local board of education.

Every local board of education in this State is authorized and empowered to
pay as a necessary expense the lawful premiums for such insurance.

Any person sustaining damages, or in case of death, his personal
representative may sue a local board of education insured under this section for
the recovery of such damages in any court of competent jurisdiction in this
State, but only in the county of such board of education; and it shall be no
defense to any such action that the negligence or tort complained of was in
pursuance of governmental, municipal or discretionary function of such local
board of education if, and to the extent, such local board of education has
insurance coverage as provided by this section.

Except as hereinbefore expressly provided, nothing in this section shall be
construed to deprive any local board of education of any defense whatsoever to
any such action for damages or to restrict, limit, or otherwise affect any such
defense which said board of education may have at common law or by virtue of
any statute; and nothing in this section shall be construed to relieve any person
sustaining damages or any personal representative of any decedent from any
duty to give notice of such claim to said local board of education or to commence
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any civil action for the recovery of damages within the applicable period of time prescribed or limited by statute.

A local board of education may incur liability pursuant to this section only with respect to a claim arising after such board of education has procured liability insurance pursuant to this section and during the time when such insurance is in force.

No part of the pleadings which relate to or allege facts as to a defendant’s insurance against liability shall be read or mentioned in the presence of the trial jury in any action brought pursuant to this section. Such liability shall not attach unless the plaintiff shall waive the right to have all issues of law or fact relating to insurance in such an action determined by a jury and such issues shall be heard and determined by the judge without resort to a jury and the jury shall be absent during any motions, arguments, testimony or announcement of findings of fact or conclusions of law with respect thereto unless the defendant shall request a jury trial thereon: Provided, that this section shall not apply to claims for damages caused by the negligent acts or torts of public school bus, or school transportation service vehicle drivers, while driving school buses and school transportation service vehicles when the operation of such school buses and service vehicles is paid from the State Public School Fund.

"§ 115C-43. Defense of board of education members and employees.—(a) Upon request made by or in behalf of any member or employee or former member or employee, any local board of education may provide for the defense of any civil or criminal action or proceeding brought against him either in his official or in his individual capacity, or both, on account of any act done or omission made, or any act allegedly done or omission allegedly made, in the scope and course of his duty as a member of or employee of the local board of education. The defense may be provided by the local board of education by its own counsel, or by employing other counsel, or by purchasing insurance which requires that the insurer provide the defense. Nothing in this section shall be deemed to require any local board of education to provide for the defense of any action or proceeding of any nature.

(b) Any local board of education may budget funds for the purpose of paying all or part of a claim made or any civil judgment entered against any of its members or employees or former members and employees, when such claim is made or such judgment is rendered as damages on account of any act done or omission made, or any act allegedly done or omission allegedly made, in the scope and course of his duty as a member of the local board of education or as an employee. Nothing in this section shall authorize any local board of education to budget funds for the purpose of paying any claim made or civil judgment entered against any of its members or employees or former members and employees if the local board of education finds that such member or employee acted or failed to act because of actual fraud, corruption or actual malice on his part. Any local board of education may budget for and purchase insurance coverage for payment of claims or judgments pursuant to this section. Nothing in this section shall be deemed to require any local board of education to pay any claim or judgment referred to herein, and the purchase of insurance coverage for payment of any such claim or judgment shall not be deemed an assumption of any liability not covered by such insurance contract, and shall not be deemed an assumption of liability for payment of any claim or judgment in excess of the limits of coverage in such insurance contract.
(c) Subsection (b) of this section shall not authorize any local board of education to pay all or part of a claim made or civil judgment entered or to provide a defense to a criminal charge unless (i) notice of the claim or litigation is given to the local board of education prior to the time that the claim is settled or civil judgment is entered and (ii) the local board of education shall have adopted, and made available for public inspection, uniform standards under which claims made, civil judgments entered, or criminal charges against members or employees or former members and employees shall be defended or paid.

"§ 115C-44. Suits and actions.—(a) A local board of education shall institute all actions, suits, or proceedings against officers, persons, or corporations, or their sureties, for the recovery, preservation, and application of all money or property which may be due to or should be applied to the support and maintenance of the schools, except in case of a breach of his bond by the treasurer of the county school fund, in which case action shall be brought by the board of county commissioners.

(b) In all actions brought in any court against a local board of education, the order or action of the board shall be presumed to be correct and the burden of proof shall be on the complaining party to show the contrary.

"§ 115C-45. Judicial functions of board.—(a) Power to Subpoena and to Punish for Contempt.—Local boards of education shall have power to issue subpoenas for the attendance of witnesses. Subpoenas may be issued in any and all matters which may lawfully come within the powers of a board and which, in the discretion of the board, require investigation; and it shall be the duty of the sheriff or any process serving officer to serve such subpoena upon payment of their lawful fees.

Local boards of education shall have power to punish for contempt for any disorderly conduct or disturbance tending to disrupt them in the transaction of official business.

(b) Witness Failing to Appear; Misdemeanor.—Any witness who shall willfully and without legal excuse fail to appear before a local board of education to testify in any matter under investigation by the board shall be guilty of a misdemeanor, and shall be fined not more than fifty dollars ($50.00) or imprisoned not more than 30 days.

(c) Appeals to Board of Education and to Superior Court.—An appeal shall lie from the decision of all school personnel to the appropriate local board of education. In all such appeals it shall be the duty of the board of education to see that a proper notice is given to all parties concerned and that a record of the hearing is properly entered in the records of the board conducting the hearing.

The board of education may designate hearing panels composed of not less than two members of the board to hear and act upon such appeals in the name and on behalf of the board of education.

An appeal shall lie from the decision of a local board of education to the superior court of the State in any action of a local board of education affecting one’s character or right to teach.

"§ 115C-46. Powers of local boards to regulate parking of motor vehicles.—(a) Any local board of education may adopt reasonable rules and regulations with respect to the parking of motor vehicles and other modes of conveyance on public school grounds and may enforce such rules and regulations. Any person who violates a rule or regulation concerning parking on public school grounds is
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guilty of a misdemeanor and, upon conviction, may be punished by a fine of not more than ten dollars ($10.00). Provided, however, that any rule or regulation adopted hereunder may provide that certain acts prohibited thereby shall not be enforced by criminal sanctions, and in such cases a person committing any such act shall not be guilty of a misdemeanor. Rules and regulations adopted hereunder shall be made available for inspection by any person upon request.

(b) Any local board of education may adopt written guidelines governing the individual assignment of parking spaces on school grounds. Such guidelines shall give first priority treatment to the physically handicapped.

c) Any local board of education, by rules and regulations adopted hereunder, may provide for the registration of motor vehicles and other modes of conveyance maintained, operated or parked on school grounds. Any local board of education, by rules and regulations adopted hereunder, may provide for the issuance of stickers, decals, permits or other indicia representing the registration status of vehicles or the eligibility of vehicles to park on school grounds and may prohibit the forgery, counterfeiting, unauthorized transfer or unauthorized use of them.

d) Any motor vehicle parked in a parking lot on school grounds, when such lot is clearly designated as such by a sign no smaller than 24 inches by 24 inches prominently displayed at each entrance thereto, in violation of the rules and regulations adopted by the local board of education, or any motor vehicle otherwise parked on school grounds in violation of the rules and regulations adopted by the county or city local board of education, may be removed from school grounds to a place of storage and the registered owner of such vehicle shall become liable for removal and storage charges. No person shall be held to answer in any civil or criminal action to any owner, lienholder, or other person legally entitled to the possession of any motor vehicle removed pursuant to this section except where such motor vehicle is willfully, maliciously or negligently damaged in the removal from school grounds to place of storage.

"§ 115C-47. Powers and duties generally.—In addition to the powers and duties designated in G.S. 115C-36, local boards of education shall have the power or duty:

(a) To Provide an Adequate School System.—It shall be the duty of local boards of education to provide adequate school systems within their respective local school administrative units, as directed by law.

(b) To Exercise Certain Judicial Functions and to Participate in Certain Suits and Actions.—Local boards of education shall have the power and authority to exercise certain judicial functions pursuant to the provisions of G.S. 115C-45 and to participate in certain suits and actions pursuant to the provisions of G.S. 115C-44.

(c) To Divide Local School Administrative Units into Attendance Areas.—Local boards of education shall have authority to divide their various units into attendance areas without regard to district lines.

(d) To Regulate Extracurricular Activities.—Local boards of education shall make all rules and regulations necessary for the conducting of extracurricular activities in the schools under their supervision, including a program of athletics, where desired, without assuming liability therefor; provided, that all interscholastic athletic activities shall be conducted in accordance with rules and regulations prescribed by the State Board of Education.
(e) To Fix Time of Opening and Closing Schools.—The time of opening and closing the public schools shall be fixed pursuant to the provisions of G.S. 115C-84(e).

(f) To Regulate Fees, Charges and Solicitations.—Local boards of education shall adopt rules and regulations governing solicitations of, sales to, and fund-raising activities conducted by, the students and faculty members in schools under their jurisdiction, and no fees, charges, or costs shall be collected from students and school personnel without approval of the board of education as recorded in the minutes of said board; provided, this subsection shall not apply to such textbook fees as are determined and established by the State Board of Education. All schedules of fees, charges and solicitations approved by local boards of education shall be reported to the Superintendent of Public Instruction.

(g) To Accept and Administer Federal or Private Funds.—Local boards of education shall have power and authority to accept, receive and administer any funds or financial assistance given, granted or provided under the provisions of the Elementary and Secondary Education Act of 1965 (Public Law 89-10, 89th Congress, HR 2362) and under the provisions of the Economic Opportunity Act of 1964 (Public Law 88-452, 88th Congress, S. 2642), or other federal acts or funds from foundations or private sources, and to comply with all conditions and requirements necessary for the receipt, acceptance and use of said funds. In the administration of such funds, local boards of education shall have authority to enter into contracts with and to cooperate with and to carry out projects with nonprofit elementary and secondary schools, community groups and nonprofit corporations, and to enter into joint agreements for these purposes with other local boards of education. Local boards of education shall furnish such information as shall be requested by the State Board of Education, from time to time, relating to any programs related or conducted pursuant to this subsection.

(h) To Sponsor or Conduct Educational Research.—Local boards of education are authorized to sponsor or conduct educational research and special projects approved by the Department of Public Instruction and the State Board of Education that may improve the school system under their jurisdictions. Such research or projects may be conducted during the summer months and the board may use any available funds for such purposes.

(i) To Assure Accurate Attendance Records.—When the governing board of any local school administrative unit shall have information that inaccurate school attendance records are being kept, the board concerned shall immediately investigate such inaccuracies and take necessary action to establish and maintain correct records and report its findings and action to the State Board of Education.

(j) To Assure Appropriate Class Size.—It shall be the responsibility of local boards of education to determine if any exceptions occur during the school year in the allowed maximums. If additional pupils are enrolled so as to cause assignment of pupils in excess of the allowed maximums, except for an emergency or act of God, it shall be the duty of any affected teacher and of the principal to notify the superintendent, who shall immediately report the deviation to the local board of education. Upon notification of excess deviations in the maximum class size, local boards shall take correctional steps and shall transfer teaching positions between schools, if necessary, to correct the excess deviation. If the local board cannot remedy the situation, it shall immediately
apply to the State Board of Education for contingency funds for additional personnel to correct exceptions. Excess deviations which cannot be corrected by transfer of teachers and by use of contingency funds shall be temporarily allowed with permission of the State Board of Education.

At the end of the first month of school each year, the superintendent of each administrative unit shall file a report for each school with the State Board of Education. This report shall be filed on forms furnished by the board and shall indicate the complete organization of each school, the duties of each teacher or other instructional personnel, and the class size or teaching load of each teacher.

It shall be the duty of local boards of education to provide adequate classroom facilities to meet the requirements of this subsection and of G.S. 115C-301.

(k) To Determine the Length of the School Day, the School Month and the School Term.—Local boards of education shall determine the length of the school day, the school month and the school term pursuant to the provisions of G.S. 115C-84(a) through (c).

(l) To Provide for Efficient Teaching of Subjects in the Outline Course of Study.—Local boards of education shall provide for the efficient teaching in each grade of all subjects included in the outline course of study prepared by the Superintendent of Public Instruction, as provided in G.S. 115C-81(b).

(m) To Elect a Superintendent.—The local boards of education shall elect superintendents subject to the requirements and limitations set forth in G.S. 115C-271.

(n) To Supply an Office, Equipment and Clerical Assistance for the Superintendent.—It shall be the duty of the various boards of education to provide the superintendent of schools with an office, equipment and clerical assistance as provided in G.S. 115C-277.

(o) To Prescribe Duties of Superintendent.—The local boards of education shall prescribe the duties of the superintendent as subject to the provisions of G.S. 115C-276(a).

(p) To Remove a Superintendent or Committeeman, When Necessary.—Local boards of education shall remove a superintendent or a committeeman for cause, pursuant to the provisions of G.S. 115C-59 and 115C-274(a).

(q) To Employ Assistant Superintendents and Supervisors.—Local boards of education have the authority to employ assistant superintendents and supervisors pursuant to the provisions of G.S. 115C-278 and 115C-284(g).

(r) To Make Rules Concerning the Conduct and Duties of Personnel.—Local boards of education, upon the recommendation of the superintendent, shall have full power to make all just and needful rules and regulations governing the conduct of teachers, principals, and supervisors, the kind of reports they shall make, and their duties in the care of school property.

(s) To Approve the Assignment of Duties to an Assistant Principal.—Local boards of education shall permit certain duties of the principal to be assigned to an assistant or acting principal pursuant to the provisions of G.S. 115C-289.

(t) To Provide for Training of Teachers.—Local boards of education are authorized to provide for the training of teachers as provided in G.S. 115C-300.

(u) To Pay School Employees.—It shall be the duty of every local board of education to provide for the prompt monthly payment of all salaries due teachers and other school officials and employees, and of all current bills and
other necessary operating expenses. All salaries and bills shall be paid as provided by law for disbursing State and local funds.

The local board shall determine salary schedules of employees pursuant to the provisions of G.S. 115C-273, 115C-285(b), 115C-302(b) and 115C-316(b).

The authority for boards of education to issue salary vouchers to all school employees, whether paid from State or local funds, shall be a monthly payroll prepared on forms furnished by the State Board of Education and containing all information required by the controller of the State Board of Education. This monthly payroll shall be signed by the principal of each school.

(v) To Provide School Food Services.—Local boards of education shall provide, to the extent practicable, school food services as provided in Part 2 of Article 17 of this Chapter.

(w) To Purchase Equipment and Supplies.—They shall contract for equipment and supplies pursuant to the provisions of G.S. 115C-522(a).

(x) Purchase of Activity Buses with Local Capital Outlay Tax Funds.—Local boards of education are authorized to purchase activity buses with local capital outlay tax funds, and are authorized to maintain these buses in the county school bus garage. Reimbursement to the State Public School Fund shall be made for all maintenance cost including labor, gasoline and oil, repair parts, tires and tubes, antifreeze, etc. Labor cost reimbursements and local funds may be used to employ additional mechanics so as to insure that all activity buses owned and operated by local boards of education are maintained in a safe mechanical condition. The State Board of Education shall inspect each activity bus and recommend to the board whether the bus should be replaced but replacements will be determined by the local board of education. Such replacement units for activity buses shall be financed with local funds.

(y) To Secure Liability Insurance.—Local boards of education are authorized to secure liability insurance, as provided in G.S. 115C-42, so as to waive their immunity for liability for certain negligent acts of their employees.

“§ 115C-48. Penalties for certain conduct.—(a) Members of local boards of election are criminally liable for certain conduct as provided in G.S.14-234 through G.S. 14-237.

(b) Members of local boards of election are civilly liable for certain conduct as provided in G.S. 115C-441.

“§ 115C-49 to 115C-53: Reserved for future codification purposes.

“ARTICLE 6.

“School Committees.

“§ 115C-54. Eligibility and oath of office; holding other offices.—Each school committee member or member of an advisory council shall be a person of intelligence, good moral character, and good business qualifications, who is known to be in favor of public education and who resides in the district. Before entering upon the duties of his office, he shall take oath for the faithful performance thereof, which oath may be taken before the county superintendent.

No person, while employed as teacher in either a public school or a private school, or while serving as a member of any local board of education or serving as an employee of the schools shall be eligible to serve as a member of a district committee.

A school committee member appointed to a school committee under G.S. 115C-55 or a councilman appointed to an advisory council is hereby declared to hold an
office that, with the exceptions provided above, may be held concurrently with any appointive office pursuant to Article VI, Sec. 9, of the Constitution, but any person holding an elective office shall not be eligible to serve on a school committee or advisory council.

"§ 115C-55. Appointment; number of members; terms; vacancies; advisory council.—The county boards of education shall biennially elect and appoint school committees for each of the several districts in their counties, consisting of not less than three, nor more than five persons, for each school district, whose term of office shall be for two years: Provided, that in county school administrative units organized as one district, the county board of education need not appoint a district school committee, in which case the county board of education shall assume the duties of the district school committee or may authorize an advisory council, or councils, to assume such duties as it may legally delegate to them. In the event of death, resignation or removal from the district of any member of said school committee, the county board of education shall be empowered to select and appoint his or her successor to serve the remainder of the term: Provided that in units desiring the same, by action of the county board of education, one third of the members may be selected for a term of one year, one third of the members for a term of two years, and one third of the members for a term of three years, and thereafter all members for a term of three years from the expiration of said terms. This section shall not have the effect of repealing any local or special acts relating to the appointment or terms of office of school committees.

A county board of education may appoint an advisory council for any school or schools within the local school administrative unit. The purpose and function of an advisory council shall be to serve in an advisory capacity to the board on matters affecting the school or schools for which it is appointed. The organization, terms, composition and regulations for the operation of such advisory council shall be determined by the board.

"§ 115C-56. Organization of school committee; meetings.—The school committee, at its first meeting after the membership has been completed by the county board of education, shall elect from its number, a chairman and secretary, who shall keep a record of its proceedings in a book to be kept for that purpose, which shall be open to public inspection. The names and addresses of the chairman and secretary shall be reported to the county superintendent and recorded by him. The committee shall meet as often as the school business of the district may require.

"§ 115C-57. How to employ principals, teachers, janitors and maids.—The district committee, upon the recommendation of the county superintendent of schools, shall elect the principals for the schools of the district, subject to the approval of the county board of education. The principal of each school shall nominate and the district committee shall elect the teachers for all the schools of the district, subject to the approval of the county superintendent of schools and the county board of education. Likewise, upon the recommendation of the principal of each school of the district, the district committee shall appoint janitors and maids for the schools of the district, subject to the approval of the county superintendent of schools and the county board of education. No election of a principal or teacher, or appointment of a janitor or maid, shall be deemed valid until such election or appointment has been approved by the county superintendent and the county board of education. No teacher under 18
years of age may be employed, and the election of all teachers and principals and the appointment of all janitors and maids shall be done at regular or called meetings of the committee.

In the event the district committee and the county superintendent are unable to agree upon the nomination and election of a principal or the principal and the district committee are unable to agree upon the nomination and election of teachers or appointment of janitors or maids, the county board of education shall select the principal and teachers and appoint janitors and maids, which selection and appointment shall be final.

The distribution of the teachers and janitors among the several schools of the district shall be subject to the approval of the county board of education.

"§ 115C-58. Committee's responsibility as to school property.—It shall be the duty of the school committee to protect all school property in its district. To this end, it is given custody of all schoolhouses, schoolhouse sites, grounds, textbooks, apparatus, and other school property in the district, with full power to control same as it may deem best for the interests of the public schools and the cause of education, but not in conflict with the rules and regulations of the county board of education. It shall be the duty of the committee to report any misuse or damage of school property immediately to the county board of education: Provided, that if the committee is unable or shall fail to take due care of all school property of the district, the county board of education may designate some responsible citizen of the district to have special charge of the property during vacation.

"§ 115C-59. Removal of committeemen for cause.—In case the county superintendent or any member of the county board of education shall have sufficient evidence at any time that any member of any school committee is not capable of discharging, or is not discharging, the duties of his office, or is guilty of immoral or disreputable conduct, he shall bring the matter to the attention of the county board of education, which shall thoroughly investigate the charges. If the board of education finds that the evidence supports the charges made to such an extent that the actions and conduct of said committeeman are not for the best interests of the schools, then the board shall proceed to remove such committeeman and appoint his successor: Provided, that such committeeman shall be given proper notice of the hearing and that a record of the findings of the board shall be recorded in the minutes of the meeting.

"§§ 115C-60 to 115C-64: Reserved for future codification purposes.

"SUBCHAPTER III.

"School Districts and Units.

"ARTICLE 7.

"Organization of Schools.

"§ 115C-65. State divided into districts.—The State of North Carolina shall be divided into eight educational districts embracing the counties herein set forth:

First District
Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Gates, Hertford, Hyde, Martin, Pasquotank, Perquimans, Pitt, Tyrrell, Washington.

Second District
Brunswick, Carteret, Craven, Duplin, Greene, Jones, Lenoir, New Hanover, Onslow, Pamlico, Pender, Sampson, Wayne.
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Third District

Fourth District
Bladen, Columbus, Cumberland, Harnett, Hoke, Lee, Montgomery, Moore, Richmond, Robeson, Scotland.

Fifth District
 Alamance, Caswell, Chatham, Davidson, Forsyth, Guilford, Orange, Person, Randolph, Rockingham, Stokes.

Sixth District
Anson, Cabarrus, Cleveland, Gaston, Lincoln, Mecklenburg, Stanly, Union.

Seventh District
Alexander, Alleghany, Ashe, Avery, Burke, Caldwell, Catawba, Davie, Iredell, Rowan, Surry, Stokes, Wilkes, Yadkin.

Eighth District

§ 115C-66. Administrative units classified.—Each county of the State shall be classified as a county school administrative unit, the schools of which, except in city administrative units, shall be under the general supervision and control of a county board of education with a county superintendent as the administrative officer.

A city school administrative unit shall be classified as an area within a county or adjacent parts of two or more contiguous counties which has been or may be approved by the State Board of Education as such a unit for purposes of school administration. The general administration and supervision of a city administrative unit shall be under the control of a board of education with a city superintendent as the administrative officer.

All local school administrative units, whether city or county, shall be dealt with by the State school authorities in all matters of school administration in the same way.

§ 115C-67. Merger of units in same county.—City school administrative units may be consolidated and merged with contiguous city school administrative units and with county school administrative units upon approval by the State Board of Education of a plan for consolidation and merger submitted by the boards of education involved and bearing the approval of the board of county commissioners.

County and city boards of education desiring to consolidate and merge their school administrative units may do so by entering into a written plan which shall set forth the conditions of merger. The provisions of the plan shall be consistent with the General Statutes and shall contain, but not be limited to, the following:

1. The name by which the merged school administrative unit shall be identified and known.

2. The effective date of the merger.

3. The establishment and maintenance of a board of education which shall administer all the public schools of the newly created unit, including:
   a. The termination of any terms of office proposed in the reorganization of the board.
b. The method of constituting and continuing the board of education, the length of the members' terms of office, the dates of induction into office, the organization of the board, the procedure for filling vacancies, and the compensation to be paid members of the board for expenses incurred in performance of their duties.

(4) The authority, powers, and duties of the board of education with respect to the employment of personnel, the preparation of budgets, and any other related matters which may be particularly applicable to the merged unit not inconsistent with the General Statutes.

(5) The transfer of all facilities, properties, structures, funds, contracts, deeds, titles, and other obligations, assets and liabilities to the board of education of the merged unit.

(6) Whether or not there shall be continued in force any supplemental school tax which may be in effect in either or all local school administrative units involved.

(7) A public hearing, which shall have been announced at least 10 days prior to the hearing, on the proposed plan of merger.

(8) A statement as to whether the question of merger, in accordance with the projected plan, is to be contingent upon approval of the voters in the affected area.

(9) Any other condition or prerequisite to merger, together with any other appropriate subject or function that may be necessary for the orderly consolidation and merger of the local school administrative units involved.

The plan referred to above shall be mutually agreed upon by the city and county boards of education involved and shall be accompanied by a certification that the plan was approved by the board of education on a given day and that the action has been duly recorded in the minutes of said board, together with a certification to the effect that the public hearing required above was announced and held. The plan, together with the required certifications, shall then be submitted to the board of county commissioners for its concurrence and approval. After such approval has been received, the plan shall be submitted to the State Board of Education for the approval of said State Board and the plan shall not become effective until such approval is granted. Upon approval by the State Board of Education, the plan of consolidation and merger shall become final and shall be deemed to have been made by authority of law and shall not be changed or amended except by an act of the General Assembly. The written plan of agreement shall be placed in the custody of the board of education operating and administering the public schools in the merged unit and a copy filed with the Secretary of State.

The plan may be, but it is not required that it be, submitted for the approval of the voters of the geographic area affected in a referendum or election called for such purpose, and such elections or referendums if held shall be held under the provisions governing elections or referendums as set forth in G.S. 115C-507, with authority of the board of county commissioners to have such election or referendum conducted by the board of elections of the county.

Upon approval of the plan of consolidation or merger by the State Board of Education, or upon approval of the plan of consolidation or merger by the voters in a referendum or election called for such purpose, and as soon as a provisional or interim board of education of the merged unit, or a permanent board of education of the merged unit, enters in and upon the duties of the
administration of the public schools of the consolidated or merged unit, then the former boards of education and all public officers of the former boards of education of the separate units thus merged shall stand abolished, and said separate boards of education or administrative units thus merged shall stand dissolved and shall cease to exist for any and all purposes. All consolidations and mergers of county and city boards of education and of county and city school administrative units heretofore agreed to and finally approved, and all consolidation or merger proceedings entered into prior to June 9, 1969, are hereby declared to be effective, legal and according to law notwithstanding any defect in the merger or consolidation proceedings and notwithstanding any dissolution of the separate boards of education and public officers of the former, separate school units.

"§ 115C-68. Merger of units in adjoining counties.—(a) Boards of education of contiguous counties or boards of education in a group of counties in which each county is contiguous with at least one other county in the group, and any city school administrative unit located in counties to be merged, may merge school administrative units upon approval by the State Board of Education of a written plan for merger submitted by the boards of education involved and bearing the approval of the tax-levying body for the school units. The plan shall be consistent with the General Statutes, shall contain provisions covering those items listed in G.S. 115C-67 (providing for the merger of units in the same county, and shall contain any other provision deemed necessary or appropriate by the State Board of Education or the local boards of education for the merger of school units in two or more counties.

(b) The plan of merger, including any arrangements for financing or taxing for the schools in the new local school administrative unit, may be, but is not required to be, submitted for the approval of the voters of the geographic area affected in a referendum or election called for the purpose of approving these matters. Such elections or referendums, if held, shall be held under the provisions governing elections or referendums as set forth in G.S. 115C-507. Each board of county commissioners shall have authority to have such elections or referendums conducted by the board of elections of its county under the provisions set forth in G.S. 115C-507.

(c) If twenty percent (20%) of the qualified voters of a county to be merged, petition the board of county commissioners of their county for an election as to whether their county shall be included in the proposed merger, the board of county commissioners shall call an election on this question for its county under the provisions of G.S. 115C-507. The petition must be submitted to the board of county commissioners within 10 days following the public hearing required by G.S. 115C-67 on the proposed plan of merger. The board of county commissioners shall have authority to have such an election conducted by the board of election of its county under the provisions set forth in G.S. 115C-507.

(d) Boards of education considering a merger of two or more counties may spend money necessary for studying and preparing for such a merger.

"§ 115C-69. Types of districts defined.—The term ‘district’ here used is defined to mean any convenient territorial division or subdivision of a county, created for the purpose of maintaining within its boundaries one or more public schools. It may include one or more incorporated towns or cities, or parts thereof, or one or more townships, or parts thereof, all of which territory is
included in a common boundary. There shall be three different kinds of districts:

1. The 'nontax district' is a territorial division of a local school administrative unit under the control of the local board of education, having no special local tax fund voted by the people for supplementing State and county funds.

2. The 'local tax district' is a territorial division of a local school administrative unit under the control of the county local board of education, having in addition to State and county funds, a special local tax fund voted by the people for supplementing State and county funds.

3. The 'administrative district' is a territorial division of a county school administrative unit under the control of a county board of education which is established for administrative purposes and which consists of any combination of one or more local tax districts, nontax areas or bond districts of the county school administrative unit.

"§ 115C-70. Creation and modification of school districts by State Board.—(a) The State Board of Education, upon the recommendation of the county board of education, shall create in any county school administrative unit a convenient number of school districts. Such district organization may be modified in the same manner in which it was created when it is deemed necessary: Provided, that when changes in district lines are made between and among school districts that have voted upon themselves the same rate of supplemental tax, such changes in district lines shall not have the effect of abolishing any of such districts or of abolishing any supplemental taxes that may have been voted in any of such districts: Provided, further, that nothing in this paragraph shall affect the right of any city school administrative unit or special tax district which now exists for the purpose of retiring debt service, to have the indebtedness of such district taken over by the county as provided by law, and nothing herein shall be construed to restrict the county board of education or the board of county commissioners in causing such indebtedness to be assumed by the county as provided by law.

The General Assembly shall not enact any local, private, or special act or resolution establishing or changing the lines of school districts.

(b) All pupils residing in a school district or attendance area, who have not been removed from school for cause, shall be entitled to all the privileges and advantages of the public schools of such district or attendance area in such school buildings to which they are assigned by local boards of education as provided in G.S. 115C-366.

"§ 115C-71. Districts formed from portions of contiguous counties.—School districts may be formed out of contiguous counties by agreement of the county boards of education of the respective counties subject to the approval of the State Board of Education. Rules for the organization, support and operation of districts so formed are subject to the agreement of the boards of education concerned, and as a guide to the working out of such agreements the formulas contained in G.S. 115C-510 should be followed as far as applicable.

"§ 115C-72. Consolidation of districts and discontinuance of schools.—County boards of education shall have the power and authority to consolidate schools located in the same district, and with the approval of the State Board of Education, to consolidate school districts or other school areas over which the board has full control, whenever and wherever in its judgment the
consolidation will better serve the educational interests of the county or any part of it: Provided, existing schools having suitable buildings shall not be abolished until the county board of education has made ample provisions for transferring all children of said school to some other school.

In determining whether two or more public schools shall be consolidated, or in determining whether or not a school shall be closed and the pupils transferred therefrom, the State Board of Education and the boards of education of the several counties shall observe and be bound by the following rules:

(1) In any question involving the discontinuance or consolidation of any high school with an average daily attendance of 60 or more pupils, the board of education of the county in which such school is located and the State Board of Education shall cause a thorough study of such school to be made, having in mind primarily the welfare of the students to be affected by a proposed consolidation and including in such study, among other factors, geographic conditions, anticipated increase or decrease in school enrollment, the inconvenience or hardship that might result to the pupils to be affected by such consolidation, the cost of providing additional school facilities in the event of such consolidation, and the importance of such school to the people of the community in which the same is located and their interest in and support of same. Before the entry of any order of consolidation, the county board of education shall provide for a public hearing in regard to such proposed consolidation, at which hearing the county and State boards of education and the public shall be afforded an opportunity to express their views. Upon the basis of the study so made and after such hearing, said boards may, in the exercise of their discretion and by concurrent action, approve the consolidation proposed.

(2) Provision shall not be made by the State Board of Education for the operation of a high school with an average daily attendance of less than 60 pupils unless the State Board of Education and the Superintendent of Public Instruction, after a careful survey by them, find that geographic or other conditions make it impractical to provide for such pupils otherwise. Upon such finding, the State Board of Education may make provision for the operation of such school.

(3) Notwithstanding the limitations imposed by the provisions of subdivision (2) of this section, the State Board of Education shall make provision for the continued operation of any high school now operating in any county school administrative unit and having an average daily attendance of at least 45 but fewer than 60 pupils, and shall allot to such school the number of teachers to which it may be entitled pursuant to law and rules of the State Board of Education if the continued operation of such school be requested by the board of education of such county by the inclusion of such school in the organization statement for the following year filed pursuant to the provisions of law: Provided, however, that at the time of making such request, the county board of education presents to the State Board of Education a certified statement that it has on hand and allocated for such purpose sufficient funds to pay the salaries, in accordance with the State standard salary schedule, of such additional teachers for said school as may be required in order to comply with minimum teacher requirements for a standard high school as now or hereafter defined and sufficient funds to pay the county's contribution for such teachers.
to the Teachers' and State Employees' Retirement System of North Carolina, as provided by G.S. 135-8(d) and that said county board of education will employ such teacher or teachers.

For the purpose of providing the funds required by the proviso of this subdivision, the boards of commissioners of the several counties are authorized to appropriate nontax funds, and the several county boards of education are authorized to accept and use privately donated funds.

(4) The provisions of this section shall not deprive any local board of education of the authority to assign or enroll any and all pupils in schools in accordance with the provisions of G.S. 115C-366(b) and 115C-367 to 115C-370.

“§ 115C-73. Enlarging tax districts and city units by permanently attaching contiguous property.—The county boards of education with the approval of the State Board of Education may transfer from nontax territory and attach permanently to local tax districts or to city school administrative units, real property contiguous to said local tax districts or city school administrative units, upon the written petition of the owners thereof and the taxpayers of the families living on such real property, and there shall be levied upon the property of each individual in the area so attached, including landowners and tenants, the same tax as is levied upon other property in said district or unit: Provided, that such transfer shall be subject to the approval of the board of education of such city unit or the committee of such tax district, as the case may be; Provided, the petition must be signed by a majority of the persons who are the owners thereof and a majority of the taxpayers of the families living on such real property on the date the petition is filed with the county board of education: Provided, further, that a person or corporation owning only an easement in real property shall not be considered an owner of said property within contemplation of this section: Provided, further that no right of action or defense founded upon the invalidity of such transfer shall be asserted, nor shall the validity of such transfer be open to question in any court upon any ground whatever, except in an action or proceeding commenced within 60 days after the approval of such transfer is given by the State Board of Education.

Any qualified voter residing in the area attached shall be permitted to vote in any election for members of the board of education having jurisdiction over the attached area.

“§ 115C-74. School system defined.—The school system of each local school administrative unit shall consist of 12 years of study or grades, and shall be graded on the basis of a school year of not less than nine months. The system may be organized in one or two ways as follows: The first eight grades shall be styled the elementary school and the remaining four grades, the high school; or if more practicable, a junior high school may be formed by combining the first year of high school with both the seventh and eighth grades or with the eighth grade alone, and a senior high school which shall comprise the last three years of high school work. For purposes of Title V of the National Defense Education Act of 1958 (Public Law 85-864) the term 'secondary school' shall be applicable to grades seven through 12.

“§ 115C-75. Recommended school classification.—The different types of public schools are classified and defined as follows:

(1) An 'elementary school' is a school which embraces a part or all of the eight elementary grades and which may have a kindergarten or other early childhood program.
(2) A 'high school' is a school which embraces a high school department above the elementary grades and which offers at least the minimum high school course of study prescribed by the State Board of Education.
(3) A 'union school' is a school which embraces both elementary and high school grades.
(4) A 'junior high school' is a school which embraces not more than the first year of high school with not more than the upper two elementary grades.
(5) A 'senior high school' is a school which embraces the tenth, eleventh and twelfth grades.

"§ § 115C-76 to 115C-80: Reserved for future codification purposes.

"SUBCHAPTER IV.

"Education Program.

"ARTICLE 8.

"General Education.


"§ 115C-81. Required curriculum.—(a) Standard Course of Study for Each Grade.—Upon the recommendation of the Superintendent, the State Board of Education shall adopt a standard course of study for each grade in the elementary school and in the high school. In the course of study adopted by the Board, the Board may establish a program of continuous learning based upon the individual child's need, interest, and stages of development, so that the program has a nongraded structure of organization. These courses of study shall set forth what subjects shall be taught in each grade, and outline the basal and supplementary books on each subject to be used in each grade.

The Superintendent shall prepare a course of study for each grade of the school system which shall outline the appropriate subjects to be taught, together with directions as to the best methods of teaching them as guidance for the teachers. There shall be included in the course of study for each grade, outlines and suggestions for teaching the subject of Americanism; and in one or more grades, as directed by the Superintendent of Public Instruction, outlines for the teaching of the dangers of harmful or illegal drugs, including alcohol; and, in one or more grades at the high school level, outlines for the teaching of the free enterprise system.

Local boards of education shall require that all subjects in the course of study, except foreign languages, be taught in the English language, and any teacher or principal who shall refuse to conduct his recitations in the English language may be dismissed.

(b) Subjects Taught in Public Schools.—Local boards of education shall provide for the efficient teaching in each grade of all subjects included in the outline course of study prepared by the Superintendent of Public Instruction, which course of study at the appropriate grade levels shall include instruction in Americanism, government of the State of North Carolina, government of the United States, fire prevention, and the dangers of harmful or illegal drugs including alcohol. The study of the free enterprise system, its history, theory, foundation, and the manner in which it operates, shall be included at the high school level. Nothing in this Chapter shall prohibit local boards of education from operating a nongraded system in which pupils are taught at their individual learning levels.

(c) Instruction in Music Education; Supervisors and Area Supervisors.—There shall be organized and administered under the general supervision of the
Superintendent of Public Instruction a program of music education in the public schools of the State, and in the various communities in which said public schools are located. The Department of Public Instruction is hereby authorized to employ a supervisor of music education and six area music supervisors in its program of promotion of music education. It shall be the duty of the supervisors to train leaders among the teachers, to hold conferences throughout the State with groups of teachers and demonstrate proper methods of teaching music, and to organize and direct leadership in music programs in the schools and in the communities of the State.

(d) Instruction in Physical Education and Health Education.—There shall be organized and administered under the general supervision of the Superintendent of Public Instruction a comprehensive program of physical education and of health education including scientific instruction in the dangers of harmful or illegal drugs including alcohol. It shall be the duty of teachers and principals in connection with this program to screen and observe all pupils in order to detect signs and symptoms of deviation from normal, and to record and report the results of their findings in accordance with the established policies and procedures and upon blanks furnished for this purpose. The Superintendent of Public Instruction, with the Department of Human Resources cooperating, shall make rules and regulations regarding screening and observation by teachers and for medical and psychiatric examination of pupils attending the public schools. Correction of chronic remediable defects for underprivileged children may be paid out of school health funds appropriated by the General Assembly to the State Board of Education for allocation to local school administrative units in accordance with policies agreed upon by the Superintendent of Public Instruction and the Department of Human Resources, and as otherwise provided by law. The Department of Human Resources shall provide free dental treatment for as many underprivileged school children as possible each year.

(e) School Health Education Program to be Developed and Administered.

(1) A comprehensive school health education program shall be developed and taught to pupils of the public schools of this State from kindergarten through ninth grade. This program shall be developed over a 10-year period beginning July 1, 1978.

(2) As used above, ‘comprehensive school health’ includes the subject matter of mental and emotional health, drug and alcohol abuse prevention, nutrition, dental health, environmental health, family living, consumer health, disease control, growth and development, first aid and emergency care, and any like subject matter.

(3) The development and administration of this program shall be the responsibility of each local school administrative unit in the State, a local school health education coordinator for each county, the Department of Public Instruction, and a State School Health Education Advisory Committee.

(4) Each existing local school administrative unit is eligible to develop and submit a plan for a comprehensive school health education program which shall meet all standards established by the State Board of Education, and to apply for funds to execute such plans.

(5) The Department of Public Instruction shall supervise the development and operation of a statewide comprehensive school health education.
program including curriculum development, in-service training provision and promotion of collegiate training, learning material review, and assessment and evaluation of local programs in the same manner as for other programs. It is the intent of this legislation that a specific position or positions in the Department of Public Instruction shall be assigned responsibilities as set forth in this subsection.

(6) A State School Health Advisory Committee is hereby established.

a. The committee shall provide citizen input into the operations of the program, report annually to the State Board of Education on progress in accomplishing the provisions and intent of this legislation, provide advice to the department with regard to its duties under this subsection, and encourage development of higher education programs which would benefit health education in the public schools.

b. The committee shall meet as necessary but at least twice annually. It shall select annually a chairperson from among its own membership, each member having an equal vote and the chairperson shall appoint such subcommittees as may be necessary. Members of the committee shall serve without compensation; however, they shall be reimbursed by the Department of Public Instruction for travel and other expenses incurred in the performance of their duties as members of the committee, to the extent that funds are appropriated for this purpose.

c. The committee shall consist of 17 members: 10 appointed by the Governor, two by the State Board of Education, one by the Speaker of the House of Representatives, one by the President of the Senate, and three ex officio members: the Chief, Office of Health Education, Department of Human Resources; the Chief, State Health Planning and Development Agency, Department of Human Resources; and the Superintendent of Public Instruction, or their designees. The Governor’s appointees shall be named in the following manner: one physician from a list of three names submitted by the North Carolina Medical Society; one physician from a list of three names submitted by the North Carolina Pediatric Society; one physician from a list of three names submitted by the North Carolina Chiropractic Association; one registered nurse from a list of three names submitted by the North Carolina Nurses’ Association; one dentist from a list of three names submitted by the North Carolina Dental Society; one member from a list of three names submitted by the North Carolina Medical Auxiliary; one member from a list of three names submitted by the North Carolina Congress of Parents and Teachers, Inc.; one member from a list of three names submitted by the North Carolina Association for Health, Physical Education, and Recreation; one member from a list of three names submitted by the North Carolina Public Health Association; one member from a list of three names submitted by the North Carolina College Conference on Professional Preparation in Health and Physical Education. The State Board nominees shall represent local school administrative units and shall have been recommended by the Superintendent of Public Instruction. The Speaker’s nominee shall be a member of the North Carolina
The Superintendent of Superintendent observance proper days the appropriate class kindergarten Instruction is observance the Maximum "§115C-83. Observance (f) Establishment and Maintenance of Kindergartens. (1) Local boards of education shall provide for their respective local school administrative unit kindergartens as a part of the public school system for all children living in the local school administrative unit who are eligible for admission pursuant to subdivision (2) of this subsection provided that funds are available from State, local, federal or other sources to operate a kindergarten program as provided in G.S. 115C-81(f) and G.S. 115C-82.

All kindergarten programs so established shall be subject to the supervision of the Department of Public Instruction and shall be operated in accordance with the standards adopted by the State Board of Education, upon recommendation of the Superintendent of Public Instruction.

Among the standards to be adopted by the State Board of Education shall be a provision that the Board will allocate funds for the purpose of operating and administering kindergartens to each school administrative unit in the State based on the average daily membership for the best continuous three out of the first four school months of pupils in the kindergarten program during the last school year in that respective school administrative unit. Such allocations are to be made from funds appropriated to the State Board of Education for the kindergarten program.

(2) Any child who has passed the fifth anniversary of his birth on or before October 15 of the year in which he enrolls shall be eligible for enrollment in kindergarten.

(3) Notwithstanding any other provision of law to the contrary, subject to the approval of the State Board of Education, any local board of education may elect not to establish and maintain a kindergarten program. Any funds allocated to a local board of education which does not operate a kindergarten program may be reallocated by the State Board of Education, within the discretion of the Board, to a county or city board of education which will operate such a program.

"§115C-82. Maximum class size.—The maximum number of students per kindergarten class is 26 students per class.

"§115C-83. Observance of special days.—The Superintendent of Public Instruction is hereby authorized and directed to provide suitable material for the appropriate observance in all the public schools of the State of all special days which are celebrated from year to year. All literature necessary for the proper observance of the days specified in this section shall be prepared by the Superintendent of Public Instruction and printed at the expense of the State. The Superintendent of Public Instruction may fix a later or an earlier date for the observance of any special day, the observance of which is required for a specific date, if it shall appear to him to be more convenient; and he may
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combine the programs so as to require the observance of any two or more of the special days at the same time.

The special days appropriate for observance in North Carolina are:

1. North Carolina Day on October the twelfth.
2. Temperance or Law and Order Day on the fourth Friday in January.
3. Arbor Day on the Friday following the fifteenth day of March.
5. Veterans Day, Memorial Day, and such other days as may be deemed of educational and patriotic value to the children and citizens of the State.

"Part 2. Calendar.

§ 115C-84. Length of school day, month, and term; Veterans Day.—(a) School Day.—The length of the school day shall be determined by the several local boards of education for all public schools in their respective local school administrative units, and the minimum time for which teachers shall be employed in the schoolroom or on the grounds supervising the activities of children shall not be less than six hours: Provided, the several local boards of education may adopt rules and regulations allowing handicapped pupils, kindergarten pupils, and pupils attending the first, second, and third grades to attend school for a period less than six hours. The superintendent of the several local boards of education, in the event of an emergency, act of God, or any other conditions requiring the termination of classes before six hours have elapsed, may suspend the operation of any school for that particular day without loss of credit to the pupil or loss of pay to the teacher.

(b) School Month.—A school month shall consist of 20 teaching days. School shall not be taught on Saturdays unless the needs of agriculture, or other conditions in the unit or district make it desirable that school be taught on such days. Whenever it is desirable to complete the school term of 180 days in a shorter term than nine calendar months, the board of education of any local school administrative unit may, in its discretion, require that school shall be taught on legal holidays, except Sundays, and in accordance with the custom and practice of such community.

(c) School Term.—There shall be operated in every school in the State a uniform school term of 180 days for instructing pupils: Provided, that the State Board of Education, or the board of education of any local school administrative unit with the approval of the State Board of Education, may suspend the operation of any school in such units, not to exceed a period of 60 days of said term of 180 days, when in the sound judgment of the State Board of Education, or the board of education of any local school administrative unit with the approval of the State Board of Education, conditions justify such suspension: Provided, further, that when the operation of any school is suspended the period of suspension shall be deducted from the total of 180 days included for each school year operation, all teachers shall be entitled to normal pay for the days of school of the suspended term, not to exceed a period of 15 school days during the school term.

Full authority is hereby given to the State Board of Education during any period of emergency to order general, and if necessary, extended recesses or adjournment of the public schools in any section of the State where the planting or harvesting of crops or any emergency conditions make such action necessary.
(d) Standard Class Duration.—Classes in basic academic courses in grades seven through nine of departmentalized public schools shall be limited to one hour’s duration unless the specific approval of the State Board of Education is obtained in advance for a longer duration.

(e) Fixing Time of Opening and Closing Schools.—The time of opening and closing the public schools shall be fixed and determined by local boards of education in their respective administrative units. Different opening and closing dates may be fixed for schools in the same administrative unit but all schools using the same buses for transportation of pupils must open and close at the same time.

(f) Veterans Day.—Veterans Day shall be a holiday for all children enrolled in the public schools, but shall be a work day for all school employees, unless designated as a holiday by the local board of education.

"Part 3. Textbooks.

§ 115C-85. Textbook needs are determined by course of study.—When the State Board of Education has adopted, upon the recommendation of the Superintendent of Public Instruction, a standard course of study at each instructional level in the elementary school and the secondary school, setting forth what subjects shall be taught at each level, it shall proceed to select and adopt textbooks. Textbooks adopted in accordance with the provisions of this Part shall be used by the public schools of the State.

§ 115C-86. State Board of Education to select and adopt textbooks.—The Board shall select and adopt for a period determined to be most advantageous to the State public school system for the exclusive use in the public schools of North Carolina the basic textbooks or series of books needed for instructional purposes at each instructional level on all subject matter required by law to be taught in elementary and secondary schools of North Carolina.

§ 115C-87. Appointment of Textbook Commission.—Shortly after assuming office, the Governor shall appoint a Textbook Commission of 14 members who shall hold office for four years, or until their successors are appointed and qualified. The members of the Commission shall be appointed by the Governor upon recommendation of the Superintendent. Six of these members shall be teachers or principals in the elementary grades; five shall be teachers or principals in the high school grades; one shall be a superintendent of a local school administrative unit; one shall be the parent of an elementary student, grades K-6, at the time of appointment; and one shall be the parent of a high school student, grades 7-12, at the time of appointment. The Governor shall fill all vacancies by appointment for the unexpired term. The Commission shall elect a chairman, subject to the approval of the Superintendent. The members shall be entitled to compensation for each day spent on the work of the Commission as approved by the Board and to reimbursement for travel and subsistence expense incurred in the performance of their duties at the rates specified in G.S. 138-5(a). Such compensation shall be paid from funds available to the State Board of Education.

§ 115C-88. Commission to evaluate books offered for adoption.—The members of the Commission who are teachers, principals or the parent of students in the elementary grades shall evaluate all textbooks offered for adoption in the elementary grades. The members who are teachers, principals or the parent of students in the high schools shall evaluate all books offered for adoption in the high school grades.
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Each member shall examine carefully and file a written evaluation of each book offered for adoption in the category for which he is responsible.

The evaluation report shall give special consideration to the suitability of the book to the instructional level for which it is offered, the content or subject matter, and other criteria prescribed by the Board.

Each evaluation report shall be signed by the member making the report and filed with the Board not later than a day fixed by the Board when the call for adoption is made.

"§ 115C-89. Selection of textbooks by Board.—At the next meeting of the Board after the reports have been filed, the Textbook Commission and the Board shall jointly examine the reports. From the books evaluated the Board shall select those that it thinks will meet the teaching requirements of the State public schools in the instructional levels for which they are offered. The Board shall then request sealed bids from the publishers on the selected books.

The Board shall make all necessary rules and regulations concerning requests for bids, notification to publishers of calls for adoption, execution and delivery of contracts, requirement of performance bonds, cancellation clauses, and such other material matters as may affect the validity of the contracts.

"§ 115C-90. Adoption of textbooks and contracts with publishers.—The publishers' sealed bids shall be opened in the Board's presence at the next regular meeting after the Board has requested the submission of bids. The Board may then adopt the books required by the courses of study and enter into contracts with the publisher of adopted books. It may refuse to adopt any of the books offered at the prices bid and call for new bids. When bids are accepted and a contract entered into, the contract may require, in the Board's discretion, that the total sales of each book in the State of North Carolina be reported annually to the Board.

"§ 115C-91. Continuance and discontinuance of contracts with publishers.—When an existing or future contract expires, the Board may, with the publisher's approval, continue the contract for any particular book or books for a period not less than one or more than five years. If a publisher desires to terminate a contract that has been extended beyond the original contract period, he shall give notice to the Board 90 days prior to May 1. The Board may then proceed to a new adoption.

"§ 115C-92. Procedure for change of textbook.—The Superintendent may at any time communicate to the Board that a particular book is unsatisfactory for the schools, whereupon the Board may call for a new selection and adoption. If the Board votes to change a textbook, it shall give the publisher 90 days' notice prior to May 1, after which it may adopt a new book or books on the subject for which a book is sought.

"§ 115C-93. Advice from and suits by Attorney General.—The form and legality of contracts between the Board and publishers of textbooks shall be subject to the approval of the Attorney General.

When requested by the Board, the Attorney General shall bring suit against any publisher who fails to keep his contract as to prices, distribution, adequate supply of books in the edition adopted, or in any other way violates the terms of his contract. The suit shall be brought for an amount sufficient to enforce the contract or to compensate the State for any loss sustained by the publisher's failure to keep his contract.
“§ 115C-94. Publishers to register.—Any publisher who submits books for adoption shall register in the office of the Superintendent of Public Instruction the names of all agents or other employees authorized to represent that company in the State, and this registration list shall be open to the public for inspection.

“§ 115C-95. Sale of books at lower price reduces price to State.—Every contract made by the Board with the publisher of any school textbook on the State-adopted list shall be deemed to have written therein a condition providing that if that publisher, during the life of his contract with this State, contracts with any other governmental unit or places that textbook on sale anywhere in the United States for a price less than that stipulated in his contract with the State of North Carolina, the publisher shall immediately furnish that textbook to this State at a price not greater than that for which the book is furnished, sold, or placed on sale anywhere else in the nation.

“§ 115C-96. Powers and duties of the State Board of Education in regard to textbooks.—The children of the public elementary and secondary schools of the State shall be provided with free basic textbooks within the appropriation of the General Assembly for that purpose. The State Board of Education is directed to request sufficient appropriations from the General Assembly to implement this directive.

The State Board of Education shall administer a fund and establish rules and regulations necessary to:

(1) Acquire by contract such basic textbooks as are or may be on the adopted list of the State of North Carolina which the Board finds necessary to meet the needs of the State public school system and to carry out the provisions of this Part.

(2) Provide a system of distribution of these textbooks and distribute the books that are provided without using any depository or warehouse facilities other than those operated by the State Board of Education.

(3) Provide for the free use, with proper care and return, of elementary and secondary basic textbooks. The title of said books shall be vested in the State.

“§ 115C-97. State Board of Education authorized to discontinue handling supplementary and library books.—The State Board of Education may discontinue the adoption of supplementary textbooks and, at the expiration of existing contracts, may discontinue the purchase, warehousing, and distribution of supplementary textbooks. The Board may also discontinue the purchase and resale of library books. Funds appropriated to the State Board of Education for supplementary textbooks shall be transferred to the State Public School Fund for allotment to each local school administrative unit, based on its average daily membership, for the purchase of supplementary textbooks, library books, periodicals, and other instructional materials.

“§ 115C-98. Local boards of education to provide for local operation of the textbook program and the selection and procurement of other instructional materials.—(a) Local boards of education shall adopt rules and regulations not inconsistent with the policies of the State Board of Education concerning the local operation of the textbook program.

(b) Local boards of education shall adopt written policies concerning the procedures to be followed in their local school administrative units for the selection and procurement of supplementary textbooks, library books, periodicals, and other instructional materials needed for instructional purposes
in the public schools of their units. Supplementary books and other instructional materials shall neither displace nor be used to the exclusion of basic textbooks.

(c) Funds allocated by the State Board of Education or appropriated in the current expense or capital outlay budgets of the local school administrative units, may be used for the above-stated purposes.

"§ 115C-99. Legal custodians of books furnished by State.—Local boards of education are the custodians of all books furnished by the State. They shall provide adequate and safe storage facilities for the proper care of these books and emphasize to all students the necessity for proper care of textbooks.

"§ 115C-100. Rental fees for textbooks prohibited; damage fees authorized.—No local board of education may charge any pupil a rental fee for the use of textbooks. Damage fees may be charged for abuse or loss of textbooks under rules and regulations promulgated by the State Board of Education. All money collected on State-owned books as damage fees or from the sale of books under the provisions of this Part shall be paid quarterly as collected to the State Board of Education.

"§ 115C-101. Duties and authority of superintendents of local school administrative units.—The superintendent of each local school administrative unit, as an official agent of the State Board of Education, shall administer the provisions of this Part and the rules and regulations of the Board insofar as they apply to his unit. The superintendent of each local school administrative unit shall have authority to require the cooperation of principals and teachers so that the children may receive the best possible service, and so that all the books and moneys may be accounted for properly. If any principal or teacher fails to comply with the provisions of this section, his superintendent shall withhold his salary vouchers until the duties imposed by this section have been performed.

If any superintendent fails to comply with the provisions of this section, the State Superintendent, as secretary to the State Board of Education, shall notify the State Board of Education and the State Treasurer. The State Board and the State Superintendent shall withhold the superintendent’s salary vouchers, and the State Treasurer shall make no payment until the State Superintendent notifies him that the provisions of this section have been complied with.

"§ 115C-102. Right to purchase.—Any parent, guardian, or person in loco parentis may purchase any instructional material needed for any child in the public schools of the State from the board of education of the local school administrative unit in which the child is enrolled or, in the case of basic textbooks, from the State Board of Education.


"§ 115C-103. Fees.—Fees, charges and costs may be collected from students and school personnel in accordance with the provisions of G.S. 115C-47(f).

"Part 5. Interstate Compact on Education.

"§ 115C-104. Enactment of Compact.—The Compact for Education is hereby entered into and enacted into law, with all jurisdictions legally joining therein, in the form substantially as follows:

"COMPACT FOR EDUCATION.

Article l. Policy and Purpose.
It is the purpose of this Compact to:

(1) Establish and maintain close cooperation and understanding among executive, legislative, professional, educational and lay leadership on a nationwide basis at the state and local levels.

(2) Provide a forum for the discussion, development, crystallization and recommendation of public policy alternatives in the field of education.

(3) Provide a clearinghouse of information on matters relating to educational problems and how they are being met in different places throughout the nation, so that the executive and legislative branches of state government and of local communities may have ready access to the experience and record of the entire country, and so that both lay and professional groups in the field of education may have additional avenues for the sharing of experience and the interchange of ideas in the formation of public policy in education.

(4) Facilitate the improvement of state and local educational systems so that all of them will be able to meet adequate and desirable goals in a society which requires continuous qualitative and quantitative advances in educational opportunities, methods and facilities.

(5) It is the policy of this Compact to encourage and promote local and state initiative in the development, maintenance, improvement and administration of educational systems and institutions in a manner which will accord with the needs and advantages of diversity among localities and states.

(6) The party states recognize that each of them has an interest in the quality and quantity of education furnished in each of the other states, as well as in the excellence of its own educational systems and institutions, because of the highly mobile character of individuals within the nation, and because of the products and services contributing to the health, welfare and economic advancement of each state which are supplied in significant part by persons educated in other states.

Article II. State Defined.

As used in this Compact, 'state' means a state, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

Article III. The Commission.

(1) The education commission of the states, hereinafter called 'the commission', is hereby established. The commission shall consist of seven members representing each party state. One of such members shall be the Governor; two shall be members of the state legislature selected by its respective houses and serving in such manner as the legislature may determine; and four shall be appointed by and serve at the pleasure of the Governor, unless the laws of the state otherwise provide. If the laws of a state prevent legislators from serving on the commission, six members shall be appointed and serve at the pleasure of the Governor, unless the laws of the state otherwise provide. In addition to any other principles or requirements which a state may establish for the appointment and service of its members of the commission, the guiding principle for the composition of the membership on the commission from each party state shall be that the members representing such state shall, by virtue of their training, experience, knowledge or affiliations be in a position collectively to reflect broadly
the interests of the state government, higher education, the state education system, local education, lay and professional, public and nonpublic educational leadership. Of those appointees, one shall be the head of a state agency or institution, designated by the Governor, having responsibility for one or more programs of public education. In addition to the members of the commission representing the party states, there may be not to exceed ten nonvoting commissioners selected by the steering committee for terms of one year. Such commissioners shall represent leading national organizations of professional educators or persons concerned with educational administration.

(2) The members of the commission shall be entitled to one vote each on the commission. No action of the commission shall be binding unless taken at a meeting at which a majority of the total number of votes on the commission are cast in favor thereof. Action of the commission shall be only at a meeting at which a majority of the commissioners are present. The commission shall meet at least once a year. In its bylaws, and subject to such directions and limitations as may be contained therein, the commission may delegate the exercise of any of its powers to the steering committee or the executive director, except for the power to approve budgets or requests for appropriations, the power to make policy recommendations pursuant to Article IV and adoption of the annual report pursuant to Article III(10).

(3) The commission shall have a seal.

(4) The commission shall elect annually, from among its members, a chairman, who shall be a governor, a vice-chairman and a treasurer. The commission shall provide for the appointment of an executive director. Such executive director shall serve at the pleasure of the commission, and together with the treasurer and such other personnel as the commission may deem appropriate shall be bonded in such amount as the commission shall determine. The executive director shall be secretary.

(5) Irrespective of the civil service, personnel or other merit system laws of any of the party states, the executive director subject to the approval of the steering committee shall appoint, remove or discharge such personnel as may be necessary for the performance of the functions of the commission, and shall fix the duties and compensation of such personnel. The commission in its bylaws shall provide for the personnel policies and programs of the commission.

(6) The commission may borrow, accept or contract for the services of personnel from any party jurisdiction, the United States, or any subdivision or agency of the aforementioned governments, or from any agency of two or more of the party jurisdictions or their subdivisions.

(7) The commission may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm, association, foundation, or corporation, and may receive, utilize and dispose of the same. Any donation or grant accepted by the commission pursuant to this paragraph or services borrowed pursuant to paragraph (6) of this article shall be reported in the annual report of the
commission. Such report shall include the nature, amount and conditions, if any, of the donation, grant, or services borrowed, and the identity of the donor or lender.

(8) The commission may establish and maintain such facilities as may be necessary for the transaction of its business. The commission may acquire, hold, and convey real and personal property and any interest therein.

(9) The commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The commission shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the party states.

(10) The commission annually shall make to the governor and legislature of each party state a report covering the activities of the commission for the preceding year. The commission may make such additional reports as it may deem desirable.

Article IV. Powers.

In addition to authority conferred on the commission by other provisions of the Compact, the commission shall have authority to:

(1) Collect, correlate, analyze and interpret information and data concerning educational needs and resources.

(2) Encourage and foster research in all aspects of education, but with special reference to the desirable scope of instruction, organization, administration, and instructional methods and standards employed or suitable for employment in public educational systems.

(3) Develop proposals for adequate financing of education as a whole and at each of its many levels.

(4) Conduct or participate in research of the types referred to in this article in any instance where the commission finds that such research is necessary for the advancement of the purposes and policies of this Compact, utilizing fully the resources of national associations, regional compact organizations for higher education, and other agencies and institutions, both public and private.

(5) Formulate suggested policies and plans for the improvement of public education as a whole, or for any segment thereof, and make recommendations with respect thereto available to the appropriate governmental units, agencies and public officials.

(6) Do such other things as may be necessary or incidental to the administration of any of its authority or functions pursuant to this Compact.

Article V. Cooperation with Federal Government.

(1) If the laws of the United States specifically so provide, or if administrative provision is made therefor within the federal government, the United States may be represented on the commission by not to exceed 10 representatives. Any such representative or representatives of the United States shall be appointed and serve in such manner as may be provided by or pursuant to federal law, and may be drawn from any one or more branches of the federal government, but no such representatives shall have a vote on the commission.
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(2) The commission may provide information and make recommendations to any executive or legislative agency or officer of the federal government concerning the common educational policies of the states, and may advise with any such agencies or officers concerning any matter of mutual interest.

Article VI. Committees.

(1) To assist in the expeditious conduct of its business when the full commission is not meeting, the commission shall elect a steering committee of 32 members which, subject to the provisions of this Compact and consistent with the policies of the commission, shall be constituted and function as provided in the bylaws of the commission. One fourth of the voting membership of the steering committee shall consist of governors, one fourth shall consist of legislators, and the remainder shall consist of other members of the commission. A federal representative on the commission may serve with the steering committee, but without vote. The voting members of the steering committee shall serve for terms of two years, except that members elected to the first steering committee of the commission shall be elected as follows: 16 for one year and 16 for two years. The chairman, vice-chairman, and treasurer of the commission shall be members of the steering committee and, anything in this paragraph to the contrary notwithstanding, shall serve during their continuance in these offices. Vacancies in the steering committee shall not affect its authority to act, but the commission at its next regularly ensuing meeting following the occurrence of any vacancy shall fill it for the unexpired term. No person shall serve more than two terms as a member of the steering committee; provided that service for a partial term of one year or less shall not be counted toward the two-term limitation.

(2) The commission may establish advisory and technical committees composed of state, local, and federal officials, and private persons to advise it with respect to any one or more of its functions. Any advisory or technical committee may, on request of the states concerned, be established to consider any matter of special concern to two or more of the party states.

(3) The commission may establish such additional committees as its bylaws may provide.

Article VII. Finance.

(1) The commission shall advise the governor or designated officer or officers of each party state of its budget and estimated expenditures for such period as may be required by the laws of that party state. Each of the commission’s budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states.

(2) The total amount of appropriation requests under any budget shall be apportioned among the party states. In making such apportionment, the commission shall devise and employ a formula which takes equitable account of the populations and per capita income levels of the party states.

(3) The commission shall not pledge the credit of any party states. The commission may meet any of its obligations in whole or in part with
funds available to it pursuant to Article III(7) of this Compact, provided that the commission takes specific action setting aside such funds prior to incurring an obligation to be met in whole or in part in such manner. Except where the commission makes use of funds available to it pursuant to Article III(7) thereof, the commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

(4) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established by its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a qualified public accountant, and the report of the audit shall be included in and become part of the annual reports of the commission.

(5) The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the commission.

(6) Nothing contained herein shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

Article VIII. Eligible Parties' Entry into and Withdrawal.

(1) This Compact shall have as eligible parties all states, territories, and possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico. In respect of any such jurisdiction not having a governor, the term 'governor', as used in this Compact, shall mean the closest equivalent official of such jurisdiction.

(2) Any state or other eligible jurisdiction may enter into this Compact and it shall become binding thereon when it has adopted the same: Provided that in order to enter into initial effect, adoption by at least 10 eligible party jurisdictions shall be required.

(3) Adoption of the Compact may be either by enactment thereof or by adherence thereto by the governor; provided that in the absence of enactment, adherence by the governor shall be sufficient to make his state a party only until December 31, 1967. During any period when a state is participating in this Compact through gubernatorial action, the governor shall appoint those persons who, in addition to himself, shall serve as the members of the commission from his state, and shall provide to the commission an equitable share of the financial support of the commission from any source available to him.

(4) Except for a withdrawal effective on December 31, 1967, in accordance with paragraph (3) of this article, any party state may withdraw from this Compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

Article IX. Construction and Severability.
This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is declared to be contrary to the constitution of any state or of the United States, or the application thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any state participating therein, the Compact shall remain in full force and effect as to the state affected as to all severable matters.

“§ 115C-105. North Carolina Education Council; bylaws.—(a) There is hereby established the North Carolina Education Council composed of the members of the education commission of the states representing this State, and not exceeding five other persons appointed by the Governor for terms of three years. Such other persons shall be selected so as to be broadly representative of professional and lay interests within this State having the responsibilities for, knowledge with respect to, and interest in educational matters. The Governor shall serve as chairman of the North Carolina Education Council or any person that the Governor may designate shall serve as chairman. The chairman of the State Board of Education, the Superintendent of Public Instruction, the chairman of the Board of Governors of The University of North Carolina, and the President of The University of North Carolina shall be ex officio members of the North Carolina Education Council. The Council shall meet on the call of its chairman or at the request of a majority of its members, but in any event the Council shall meet not less than three times in each year. The Council may consider any and all matters relating to the recommendations of the education commission of the states and the activities of the members in representing this State thereon.

(b) Pursuant to Article III(9) of the Compact, the commission shall file a copy of its bylaws and any amendment thereto with the Secretary of State of North Carolina.

“ARTICLE 9.
“Special Education.

“§ 115C 106. Policy.—(a) The General Assembly of North Carolina hereby declares that the policy of the State is to ensure every child a fair and full opportunity to reach his full potential and that no child as defined in this section and in G.S. 115C-122 shall be excluded from service or education for any reason whatsoever. This policy shall be the practice of the State for children from birth though age 21 and the State requires compliance by all local education agencies and local school administrative units, all local human resources agencies including, but not limited to, local health departments, local social service departments, community mental health centers and all State departments, agencies, institutions except institutions of higher education, and private providers which are recipients of general funds as these funds are defined in G.S. 143-1.

(b) The policy of the State is to provide a free appropriate publicly supported education to every child with special needs. The purpose of this Article is to (i) provide for a system of special educational opportunities for all children requiring special education, hereinafter called children with special needs; (ii)
provide a system for identifying and evaluating the educational needs of all children with special needs; (iii) require evaluation of the needs of such children and the adequacy of special education programs before placing children in the programs; (iv) require periodic evaluation of the benefits of the programs to the children and of the nature of the children’s needs after placement; (v) prevent denials of equal educational opportunity on the basis of physical, emotional, or mental handicap; (vi) assure that the rights of children with special needs and their parents or guardians are protected; (vii) ensure that there be no inadequacies, inequities, and discrimination with respect to children with special needs; and (viii) bring State law, regulations, and practice into conformity with relevant federal law.

"§ 115C-107. Children can learn.—The General Assembly finds that all children with special needs are capable of benefitting from appropriate programs of special education and training and that they have the ability to be educated and trained and to learn and develop. Accordingly, the State has a duty to provide them with a free appropriate public education.

"§ 115C-108. Definition of special education and related services.—The term 'special education' means specially designed instruction, at no cost to the parents or guardians, to meet the unique needs of a special needs child, including classroom instruction, instruction in physical education, home instruction, and instruction in hospitals and institutions. The term also includes speech pathology, audiology, occupational and physical therapy. The term 'related services' means transportation and such developmental, corrective and other supportive services as are required to assist a special needs child to benefit from special education and includes speech pathology and audiology, psychological services, physical and occupational therapy, recreation, early identification and assessment of disabilities in children, counseling services, and medical services for diagnostic or evaluation purposes only. The term also includes school social work services, parent counseling and training, providing parents with information about child development and assisting parents in understanding the special needs of their child. Other similar services, materials and equipment may be provided as approved by regulations adopted by the State Board of Education.

"§ 115C-109. Definition of children with special needs.—The term 'children with special needs' includes, without limitation, all children between the ages of five and 18 who because of permanent or temporary mental, physical or emotional handicaps need special education, are unable to have all their needs met in a regular class without special education or related services, or are unable to be adequately educated in the public schools. It includes those who are mentally retarded, epileptic, learning disabled, cerebral palsied, seriously emotionally disturbed, orthopedically impaired, autistic, multiply handicapped, pregnant, hearing-impaired, speech-impaired, blind or visually impaired, genetically impaired, and gifted and talented.

"§ 115C-110. Services mandatory; single agency responsibility; State and local plans; census and registration.—(a) The Board shall cause to be provided by all local school administrative units and by all other State and local governmental agencies providing special education services or having children with special needs in their care, custody, management, jurisdiction, control, or programs, special education and related services appropriate to all children with special needs. In this regard, all local school administrative units and all other State
and local governmental agencies providing special education and related services shall explore available local resources and determine whether the services are currently being offered by an existing public or private agency.

When a specified special education or related service is being offered by a local public or private resource, any unit or agency described above shall negotiate for the purchase of that service or shall present full consideration of alternatives and its recommendations to the Board. In this regard, a new or additional program for special education or related services shall be developed with the approval of the Board only when that service is not being provided by existing public or private resources or the service cannot be purchased from existing providers. Further, the Board shall support and encourage joint and collaborative special education planning and programming at local levels to include local administrative units and the programs and agencies of the Departments of Human Resources and Correction.

The jurisdiction of the Board with respect to the design and content of special education programs or related services for children with special needs extends to and over the Department of Human Resources and the Department of Correction.

All provisions of this Article that are specifically applicable to local school administrative units also are applicable to the Department of Human Resources and the Department of Correction and their divisions and agencies; all duties, responsibilities, rights and privileges specifically imposed on or granted to local school administrative units by this Article also are imposed on or granted to the Department of Human Resources and the Department of Correction and their divisions and agencies. However, with respect to children with special needs who are residents or patients of any State-operated or State-supported residential treatment facility, including without limitation, a school for the deaf, school for the blind, mental hospital or center, mental retardation center, or in a facility operated by the Department of Correction or any of its divisions and agencies, the Board shall have the power to contract with the Department of Human Resources and the Department of Correction for the provision of special education and related services and the power to review, revise and approve said departments' plans for special education and related services to those residents.

The Departments of Human Resources and Correction shall submit to the Board their plans for the education of children with special needs in their care, custody, or control. The Board shall have general supervision and shall set standards, by rule or regulation, for the programs of special education to be administered by it, by local educational agencies, and by the Departments of Human Resources and Correction. The Board may grant specific exemptions for programs administered by the Department of Human Resources or the Department of Correction when compliance by them with the Board's standards would, in the Board's judgment, impose undue hardship on such department and when other procedural due process requirements, substantially equivalent to those of G.S.115C-116, are assured in programs of special education and related services furnished to children with special needs served by such department. Further, the Board shall recognize that inpatient and residential special education programs within the Departments of Human Resources and Correction may require more program resources than those
necessary for optimal operation of such programs in local school administrative units.

Every State and local department, division, unit or agency covered by this section is hereinafter referred to as a ‘local educational agency’ unless the text of this Article otherwise provides.

(b) The Board shall make and keep current a plan for the implementation of the policy set forth in G.S. 115C-106(b). The plan shall include:

(1) A census of the children with special needs in the State, as required by subsection (j) of this section;
(2) A procedure for diagnosis and evaluation of each such child;
(3) An inventory of the personnel and facilities available to provide special education for such children;
(4) An analysis of the present distribution of responsibility for special education between State and local educational agencies, together with recommendations for any necessary or desirable changes in the distribution of responsibilities;
(5) Standards for the education of children with special needs;
(6) Programs and procedures for the development and implementation of a comprehensive system of personnel development; and
(7) Any additional matters, including recommendations for amendment of laws, changes in administrative regulations, rules and practices and patterns of special organization, and changes in levels and patterns of education financial support.

(c) The Board shall annually submit amendments to or revisions of the plan required by subsection (b) to the Governor and General Assembly and make it available for public comment pursuant to subdivision (1) and for public distribution no less than 30 days before January 15 of each year. All such submissions shall set forth in detail the progress made in the implementation of the plan.

(d) The Board shall adopt rules or regulations covering:

(1) The qualifications of and standards for certification of teachers, aides, speech clinicians, school psychologists, and others involved in the education and training of children with special needs;
(2) Minimum standards for the individualized education program for each child with special needs who receives special education or related services; and
(3) Such other rules or regulations as may be necessary or appropriate for carrying out the purposes of this Article. Representatives from the Departments of Human Resources and Correction shall be involved in the development of the standards outlined under this subsection.

(e) On or before October 15, each local educational agency shall report annually to the Board the extent to which it is then providing special education for children with special needs. The annual report also shall detail the means by which the local educational agency proposes to secure full compliance with the policy of this Article, including the following:

(1) A statement of the extent to which the required education and services will be provided directly by the agency;
(2) A statement of the extent to which standards in force pursuant to G.S. 115C-110(b)(5) and (d)(2) are being met by the agency; and
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(3) The means by which the agency will contract to provide, at levels meeting standards in force pursuant to G.S. 115C-110(b)(5) and (d)(2), all special education and related services not provided directly by it or by the State.

(f) After submitting the report required by subsection (e), the local educational agency also shall submit such supplemental and additional reports as the Board may require to keep the local educational agency’s plan current.

(g) By rule or regulation, the Board shall prescribe due dates not later than October 15 of each year, and all other necessary or appropriate matters relating to such annual and supplemental and additional reports.

(h) The annual report shall be a two-year plan for providing appropriate special education and related services to children with special needs. The agency shall submit the plan to the Board for its review, approval, modification, or disapproval. Unless thereafter modified with approval of the Board, the plan shall be adhered to by the local educational agency. The procedure for approving, disapproving, establishing, and enforcing the plan shall be the same as that set forth for the annual plan. The long-range plan shall include such provisions as may be appropriate for the following, without limitation:

1. Establishment of classes, other programs of instruction, curricula, facilities, equipment, and special services for children with special needs; and

2. Utilization and professional development of teachers and other personnel working with children with special needs.

(i) Each local educational agency shall provide free appropriate special education and related services in accordance with the provisions of this Article for all children with special needs who are residents of, or whose parents or guardians are residents of, the agency’s district, beginning with children aged five. No matriculation or tuition fees or other fees or charges shall be required or asked of children with special needs or their parents or guardians except such fees or charges as are required uniformly of all public school pupils. The provision of free appropriate special education within the facilities of the Department of Human Resources shall not prevent that department from charging for other services or treatment.

(j) The Board shall require an annual census of children with special needs, subdivided for ‘identified’ and ‘suspected’ children with special needs, to be taken in each school year. The census shall be conducted annually and shall be completed not later than October 15, and shall be submitted to the Governor and General Assembly and be made available to the public no later than January 15 annually.

In taking the census, the Board shall require the cooperation, participation, and assistance of all local educational agencies and all other State and local governmental departments and agencies providing or required to provide special education services to children with special needs, and those departments and agencies shall cooperate and participate with and assist the Board in conducting the census.

The census shall include the number of children identified and suspected with special needs, their age, the nature of their disability, their county or city of residence, their local school administrative unit residence, whether they are being provided special educational or related services and if so by what department or agency, whether they are not being provided special education or
related services, the identity of each department or agency having children with special needs in its care, custody, management, jurisdiction, control, or programs, the number of children with special needs being served by each department or agency, and such other information or data as the Board shall require. The census shall be of children with special needs between the ages of three and 21, inclusive.

(k) The department shall monitor the effectiveness of individualized education programs in meeting the educational needs of children with special needs.

(l) The Board shall provide for procedures assuring that in carrying out the requirements of this Article procedures are established for consultation with individuals involved in or concerned with the education of children with special needs, including parents or guardians of such children, and there are public hearings, adequate notice of such hearings, and an opportunity for comment available to the general public prior to the adoption of the policies, procedures, and rules or regulations required by this Article.

(m) Children with special needs shall be educated in the least restrictive appropriate setting, as defined by the State Board of Education.

"Part 2. Nondiscrimination in Education.

"§ 115C-111. Free appropriate education for all children with special needs.—No child with special needs between the ages specified by G.S. 115C-109 shall be denied a free appropriate public education or be prevented from attending the public schools of the local educational agency in which he or his parents or legal guardian resides or from which he receives services or from attending any other public program of free appropriate public education because he is a child with special needs. If it appears that a child should receive a program of free appropriate public education in a program operated by or under the supervision of the Department of Human Resources, the local educational agency shall confer with the appropriate Department of Human Resources staff for their participation and determination of the appropriateness of placement in said program and development of the child's individualized education program. The individualized education program may then be challenged under the due process provisions of G.S. 115C-116. Every child with special needs shall be entitled to attend such nonresidential schools or programs and receive from them free appropriate public education.

"§ 115C-112. Disciplinary suspensions.—If:

(1) A local educational agency suspends or expels a child with special needs from a public school program for a period of more than 10 days or for consecutive periods that total more than 10 days either because he is or poses a risk of injury to himself or others or because he is or is threatening to disrupt substantially the education of others;

(2) The risk of injury or disruption of education of others for which the child was suspended or expelled was caused by the lack of proper medication, appropriate educational services or ambulatory services for the child; and

(3) The period of suspension or expulsion is one in which the child would be receiving special education or training in the unit but for the suspension or expulsion.

The agency, notwithstanding the suspension or expulsion, shall continue to provide the child with essential special education or related services during the
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period of suspension or expulsion and the parents may appeal, under G.S. 115C-116, any suspension of more than 10 consecutive days. The expulsion or suspension of a child with special needs shall not be subject to the provisions of G.S. 115C-116, and there shall be no requirement for continued special education or related services if the risk of injury or disruption of education of others for which the child was suspended or expelled was not caused by the lack of proper medication, appropriate educational services or ambulatory services for the child. These limitations on suspension and expulsion shall not interfere with the authority of the Department of Human Resources to release or discharge patients and residents from its programs when the primary purpose of admission has been achieved or when it is no longer feasible or advisable to continue the patient or resident in residence.

“§ 115C-113. Diagnosis and evaluation; individualized education program.—
(a) Before taking any action described in subsection (b), below, each local educational agency shall cause a multi-disciplinary diagnosis and evaluation to be made of the child. The local educational agency shall use the diagnosis and evaluation to determine if the child has special needs, diagnose and evaluate those needs, propose special education programs to meet those needs, and provide or arrange to provide such programs. A multi-disciplinary diagnosis and evaluation is one which includes, without limitation, medical (if necessary), psychological (if necessary) and educational assessments and recommendations; such an evaluation may include any other assessments as the Board may, by rule or regulation, require.

All testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of children with special needs will be selected and administered so as not to be racially or culturally discriminatory. Such materials or procedures shall be provided and administered in the child’s native language or mode of communication, unless it clearly is not feasible to do so, and no single procedure shall be the sole criterion for determining an appropriate educational program for a child.

(b) An initial multi-disciplinary diagnosis and evaluation based on rules developed by the Board shall be made before any such child is placed in a special education program, removed from such a program and placed in a regular school program, transferred from one type of special education program to another, removed from a school program for placement in a nonschool program, or otherwise tracked, classified, or treated as a child with special needs.

(c) Referral of any child shall be in writing, signed by the person requesting diagnosis and evaluation, setting forth the reasons for the request; it shall be sent or delivered to the child’s teacher, the principal of the school to which the child is, has been or will be assigned, and the superintendent or other chief executive officer of the affected local educational agency.

Within 30 days of such referral, the local educational agency shall send a written notice to the parents or guardian describing the evaluation procedure to be followed and requesting consent for the evaluation. If the parents or guardian consent, the diagnosis and evaluation may be undertaken; if they do not, the local educational agency may obtain a due process hearing on the failure of the parent to consent under G.S. 115C-116.

The local educational agency shall provide or cause to be provided a diagnosis and evaluation appropriate to the needs of the child within 30 calendar days
after sending the notice unless the parents or guardian have objected to such evaluation. At the end of such diagnosis and evaluation, the local educational agency shall offer a proposal for an educational program appropriate to the child's needs. If this proposal calls for a special educational program, it shall set forth the specific benefits expected from such a program, a method for monitoring the benefits, and a statement regarding conditions which will be considered indicative of the child's readiness for participation in regular classes.

Within 12 months after placement in a special education program, and at least annually thereafter, those people responsible for developing the child's individualized education program shall evaluate the child's progress and, on the basis of previously stated expected benefits, decide whether to continue or discontinue the placement or program. If the reevaluation indicates that the placement or program does not benefit the child, the appropriate reassignment or alteration in the prescribed program shall be recommended to the parents or guardian and their consent requested.

The local educational agency shall keep a complete written record of all diagnostic and evaluation procedures attempted, their results, the conclusions reached, and the proposals made.

(d) The local educational agency shall furnish the results, findings, and proposals based on the diagnosis and evaluation to the parents or guardian in writing in the parents' or guardian's native language or by their dominant mode of communication, within 15 calendar days after the diagnosis and evaluation are completed. Within 20 days after the diagnosis and evaluation are completed, it shall cause a conference to be scheduled between one of its staff competent to interpret the report of the diagnosis and evaluation and the child's parents or guardian. The conference shall be held no later than 30 calendar days after the date it is scheduled. At the conference, the report shall be explained to the parents or guardian. The parents or guardian may waive the interpretive conference.

(e) Each local educational agency shall make and keep current a list of all children evaluated and diagnosed pursuant to this section who are found to have special needs and of all children who are receiving home, hospital, institutional or other special education services, including those being educated within the regular classroom setting or in other special education programs.

(f) Each local educational agency shall prepare an individualized educational program for each child found to be a child with special needs. The individualized educational program shall be developed in conformity with Public Law 94-142 and the implementing regulations issued by the United States Department of Education and shall be implemented in conformity with timelines set by that Department. The term 'individualized educational program' means a written statement for each such child developed in any meeting by a representative of the local educational agency who shall be qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of such children, the teacher, the parents or guardian of such child, and, whenever appropriate, such child, which statement shall be based on rules developed by the Board. Each local educational agency shall establish, or revise, whichever is appropriate, the individualized educational program of each child with special needs at the beginning of each school year and will then review and, if appropriate revise, its provisions periodically, but not less than annually. In the facilities and programs of the Department of
Human Resources, the individualized educational program shall be planned in
collaboration with those other individuals responsible for the design of the
total treatment or habilitation plan or both; the resulting educational,
treatment, and habilitation plans shall be coordinated, integrated, and
internally consistent.

"§ 115C-114. Records privacy and expunction.—(a) No local educational
agency may release to any persons other than the eligible student, his parents or
guardian or any surrogate parent any records, data or information on any child
with special needs except (i) as permitted by the prior written consent of the
student, his parents or guardian or surrogate parent, (ii) as required or
permitted by federal law, (iii) school officials within the local education agency
who have legitimate educational interest, (iv) school officials of other local
educational agencies in which the student intends to enroll, or (v) certain
authorized representatives of the State and federal government who are
determining eligibility of the child for aid, as provided under Public Law 93-380
or other federal law.

(b) The eligible student, his parents or guardian or surrogate parent shall
have the right to read, inspect and copy all and any records, data and
information maintained by a local educational agency with respect to the
student, and, upon their request, shall be entitled to have those records, data
and information fully explained, interpreted and analyzed for them by the staff
of the agency. The parent or guardian or surrogate parent may demand that his
request must be honored within not more than 45 days after it is made.

(c) The student, his parents or guardian or surrogate parent shall have the
right to add to the records, data and information written explanations or
clarifications thereof, and to cause the expunction of incorrect, outdated,
misleading or irrelevant entries. If a local educational agency refuses to expunge
incorrect, outdated, misleading or irrelevant entries after having been asked to
do so by the parent, such person may obtain a due process hearing, under G.S.
115C-116, on the agency’s refusal, and must request the hearing within 30 days
after the agency’s refusal.

"§ 115C-115. Placements in private schools, out-of-State schools and schools
in other local educational agencies.—The Board shall adopt rules and
regulations to assure that:

(1) There be no cost to the parents or guardian for the placement of a child in
a private school, out-of-State school or a school in other local educational
agencies if the child were so placed by the Board or by the appropriate local
educational agency as the means of carrying out the requirement of this Article
or any other applicable law requiring the provision of special education and
related services to children within the State.

(2) No child shall be placed by the Board or by the local educational agency in
a private or out-of-State school unless the Board has determined that the school
meets standards that apply to State and local educational agencies and that the
child so placed will have all the rights he would have if served by a State or
local educational agency.

(3) If the placement of the child in a private school, out-of-State school or a
school in another local educational agency determined by the Superintendent
of Public Instruction to be the most cost-effective way to provide an appropriate
education to that child and the child is not currently being educated by the
Department of Human Resources or the Department of Correction, the State

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will bear a portion of the cost of the placement of the child. The local school administrative unit shall pay an amount equal to what it receives per pupil from the State Public School Fund and from other State and federal funds for children with special needs for that child. The State shall pay the full cost of any remainder up to a maximum of fifty percent (50%) of the total cost. The State and local educational agencies shall be excused from payment of the costs of special education and related services in a private school if a child is placed in that school by his parents or guardian against the advice of the State or a local educational agency.

"Part 3. Appeals.

§115C-116. Exceptional children special program dissatisfaction with assignment; right to appeal.—(a) Right of Appeal.—A child, his parent, his guardian, or his surrogate parent, in the case of a child whose parent or guardian is unknown or unavailable or in the case of a child who is a ward of the State, may obtain review as herein provided of an action or omission by State or local authorities on the ground that the child has been or is about to be:

(1) Denied entry or continuance in a program appropriate to his condition and needs;
(2) Placed in a program which is inappropriate, unsuitable, or inadequate to his condition and needs; or
(3) Assigned to a special program when he is not a child with special need.

(b) The parent or guardian of a child placed or denied placement in a program shall be notified promptly, via parent or guardian conference, or by registered or certified mail, return receipt requested, of his placement, denial or impending placement or denial. Such notice shall contain a statement informing the parent or guardian that he is entitled to review of the determination and of the procedure for obtaining such review. The notice shall contain information that a hearing may be had before the local school board for educational matters or the Advocacy Council for Human Resource matters, upon written request, no less than 15 days nor more than 30 days from the date on which the notice was received. The parent or guardian of a child may, upon written request, not more than 30 days from the date of a decision, appeal said decision to the Superintendent of Public Instruction or the Secretary of Human Resources. Any appeal of these decisions to the General Court of Justice must occur within 30 days after notice of such decision.

(c) A surrogate parent may not be an employee of the State or any local government educational or human resources agency responsible for or involved in the education or care of the child. In the case of an appeal from action or omission by the State or local government education agency the surrogate parent shall be appointed from a group of people selected by the Superintendent of Public Instruction, and in the case of an appeal from an action or omission by the State or a local government human resources agency, from a group of people selected by the Secretary of the Department of Human Resources. Both the Superintendent and the Secretary shall upon ratification of this subsection establish procedures, pursuant to their powers under subsection (g) of this section, to ensure that every child in need of a surrogate parent is provided with one. The surrogate parent shall represent the child in the appeal and subsequent proceedings arising therefrom.

(d) All hearings shall be closed unless otherwise requested by the parent or guardian of a child.
(e) Ordinarily no change in the program assignment or status of a child with special needs shall be made within the period afforded the parent or guardian to request a hearing, except that such change may be made with the written consent of the parent or guardian. However, if the health or safety of the child or any other individual would be endangered by delaying the change in assignment, the change may be made sooner without prejudice to any rights that the child and his parent or guardian may have pursuant to this section or otherwise pursuant to law.

(f) The parent or guardian shall have access to any reports, records, clinical evaluations or other materials upon which the determination to be reviewed was wholly or partially based or which could reasonably have a bearing on the correctness of the determination. At any hearing held pursuant to this section, the child and his parent or guardian shall be entitled to examine and cross-examine witnesses, to introduce evidence, to appear in person, and to be represented by counsel.

(g) The Superintendent and the Secretary shall make, amend or revise rules and regulations for the conduct of hearings authorized by this section and otherwise for the implementation of its purpose. Among other things, such rules and regulations shall allow the appointment of a hearing officer or board to hear such cases as may be appealed. Copies of such rules shall be filed in the office of the Attorney General as required by Chapter 150A.

(h) The determination of the appeal shall be subject to judicial review in the manner provided for in Article 4, Chapter 150A of the General Statutes.

(i) The remedies provided by this section are in addition to any other remedies which a child, his parent or guardian may otherwise have pursuant to law.

“Part 4. Regional Educational Training Center.

“§ 115C-117. Creation.—There is hereby established within the Department of Public Instruction a system of Regional Educational Training Centers. Said centers shall be equitably distributed across the State as shall be determined by the Superintendent, but such centers shall be located in reasonable proximity to one of the developmental evaluation centers operated by the Department of Human Resources.

“§ 115C-118. Functions.—The centers shall have the following functions:

1) To provide in-service training to all special education teachers and other professionals as defined by the Superintendent.

2) To develop in kindergarten and primary grade teachers the necessary skills to detect potential special educational needs and the capability to plan special educational programs.

3) To provide in-service training and consultative services to a parent or guardian of a child with special needs and to appropriate public school administrative and management personnel.

4) To work in concert with the various local human resources agencies to the end that multiple and duplicative services provided at various times and by various agencies of the State may be obviated.

5) To conduct an in-depth evaluation of the impact of in-service training on the delivery of services to children with special needs within the public schools on an annual basis in compliance with such rules and regulations as the Superintendent may promulgate.
"§ 115C-119. Organization of centers.—Employees of the centers shall be employees of the Department of Public Instruction appointed by the Superintendent subject to the approval of the State Board. Employees of those centers now in place and operational shall be employees of the Department, and those centers now in place and operational shall fulfill the functions set forth for new centers.

"§ 115C-120. Rules and regulations.—The Superintendent shall develop and promulgate appropriate rules and regulations for the operation of the centers subject to the approval of the State Board. Such rules and regulations shall prescribe the precise operational responsibility of the centers and shall include a description of the operational relationship that shall exist with the various local human resources agencies.

"Part 5. Council on Educational Services

for Exceptional Children.

"§ 115C-121. Establishment; organization; powers and duties.—(a) There is hereby established an Advisory Council to the State Board of Education to be called the Council on Educational Services for Exceptional Children.

(b) The Council shall consist of 17 members to be appointed as follows: two members appointed by the Governor; two members of the Senate appointed by the Lieutenant Governor; two members of the House of Representatives appointed by the Speaker of the House; and 11 members appointed by the State Board of Education. Of those members of the Council appointed by the State Board one member shall be selected from each congressional district within the State, and the members so selected shall be composed of at least one person representing each of the following: handicapped individuals, parents or guardians of children with special needs, teachers of children with special needs, and State and local education officials and administrators of programs for children with special needs. The Council shall designate a chairperson from among its members. The designation of the chairperson is subject to the approval of the State Board of Education. The board shall promulgate rules or regulations to carry out this subsection.

Ex officio members of the Council shall be the following:

(1) The Secretary of the Department of Human Resources or the Secretary's designee;

(2) The Secretary of the Department of Correction or the Secretary's designee;

(3) A representative from The University of North Carolina Planning Consortium for Children with Special Needs; and

(4) The Superintendent of Public Instruction or the Superintendent's designee.

The term of appointment for all members except those appointed by the State Board of Education shall be for two years. The term for members appointed by the State Board of Education shall be for four years. No person shall serve more than two consecutive four-year terms.

Each Council member shall serve without pay, but shall receive travel allowances and per diem in the same amount provided for members of the North Carolina General Assembly.

(c) The Council shall meet in offices provided by the Department of Public Instruction on a date to be agreed upon by the members of the Council from meeting to meeting: Provided, however, that the Council shall meet no less
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than once every three months. The Department of Public Instruction shall provide the necessary secretarial and clerical staff and supplies to accomplish the objectives of the Council.

(d) The duties of the Council shall be to:

(1) Advise the Board with respect to unmet needs within the State in the education of children with special needs, as defined in this Chapter.
(2) Comment publicly on rules and regulations proposed for issuance by the Board regarding special education and related services and the procedures for issuing State and federal funds for special education and related services.
(3) Assist the Board in developing and reporting such data and evaluations as may assist the Commissioner of Education in the performance of his duties under Part B, Education of the Handicapped Act, as amended by Public Law 94-142.
(4) Comment publicly on State special education plans developed pursuant to Public Law 94-142 and State law.


"§ 115C-122. Early childhood development program; evaluation and placement of children.—The General Assembly of North Carolina declares that the public policy of North Carolina is defined as follows to carry out the policies stated in G.S. 115C-106:

(1) The State shall provide for a comprehensive early childhood development program by emphasizing preventative and remedial measures designed to provide the services which will enable children to develop to the maximum level their physical, mental, social, and emotional potentials and to strengthen the role of the family as the first and most fundamental influence on child development. The General Assembly finds that the complexity of early childhood development precludes the enactment of legislation which is of a sufficiently comprehensive nature to encompass all possible implications. The Departments of Public Instruction and Human Resources shall, therefore, jointly develop an early childhood development program plan with flexibility sufficient to meet the State's policy as set forth in this subdivision. Said plan shall provide for the operation of a statewide early childhood development program no later than June 30, 1983.

(2) The State requires a system of educational opportunities for all children with special needs and requires the identification and evaluation of the needs of children and the adequacy of various education programs before placement of children, and shall provide for periodic evaluation of the benefits of programs to the individual child and the nature of the child's needs thereafter.

(3) The State shall prevent denial of equal educational and service opportunity on the basis of national origin, sex, economic status, race, religion, and physical, mental, social or emotional handicap in the provision of services to any child. Each local school administrative unit shall develop program plans to meet the educational requirements of children with special needs and each local human resources agency shall develop program plans to meet the human service requirements of children with special needs in accordance with program standards and in a planning format as shall be prescribed by the State Board of Education and the Department of Human Resources respectively.

The General Assembly intends that the educational program and human service program requirements of Session Laws 1973, Chapter 1293, shall be
realized no later than June 30, 1982. The General Assembly further intends that currently imposed barriers to educational and human service opportunities for children with special needs by reason of a single standardized test, income, federal regulations, conflicting statutes, or any other barriers are hereby abrogated; except that with respect to barriers caused by reason of income, it shall be permissible for the State or any local education agency or local human resources agency to charge fees for special services rendered, or special materials furnished to a child with special needs, his parents, guardian or persons standing in loco parentis unless the imposition of such fees would prevent or substantially deter the child, his parents, guardian, or persons standing in loco parentis from availing themselves of or receiving such services or materials.

(4) It is recognized that children have a variety of characteristics and needs, all of which must be considered if the potential of each child is to be realized; that in order to accomplish this the State must develop a full range of service and education programs, and that a program must actually benefit a child or be designed to benefit a particular child in order to provide such child with appropriate educational and service opportunities. The General Assembly requires that all programs employ least restrictive alternatives as shall be defined by the Departments of Public Instruction and Human Resources.

"Part 7. State Schools for Hearing-Impaired Children.

"§ 115C-123. Incorporation; operation.—There are hereby established, and there shall be maintained, schools for the deaf of this State which shall be a corporation under the corporate names of the Central North Carolina School for the Deaf at Greensboro, the Eastern North Carolina School for the Deaf at Wilson and the Western North Carolina School for the Deaf at Morganton. The Department of Human Resources shall be the governing body of the schools.

The Board of Directors of the North Carolina Schools for the Deaf shall advise the Department and shall adopt rules and regulations concerning the schools as provided in G.S. 115C-124 and G.S. 143B-173.

"§ 115C-124. Pupils admitted; education.—The Department of Human Resources shall according to such reasonable regulations as the Board of Directors may prescribe, on application, receive into the schools for the purposes of education all deaf children resident of the State who are between the ages of five and 18 years: Provided, that the Department of Human Resources may admit students who are not within the age limits set forth above when in its judgment, such admission will be in the best interests of the applicant and the facilities of the school permit such admission. Only those who are bona fide citizens or residents of North Carolina shall be eligible to and entitled to receive free tuition and maintenance. The Department may fix charges and the Board of Directors may prescribe rules whereby nonresident deaf children may be admitted, but in no event shall the admission of nonresidents in any way prevent the attendance of any eligible deaf child, resident of North Carolina. The Department shall provide for the instruction of all pupils in the branches of study now prescribed by law for the public schools of the State and in such other branches as may be of special benefit to the deaf.

The Department shall encourage the State to provide the classrooms with modern auditory training equipment, audiovisual media equipment, and any other special equipment to provide the best educational conditions for the deaf. The Department shall provide a teacher training program in the State. The Department shall provide for a comprehensive vocational and technical
training program for boys and girls as may be useful to them in making themselves self-supporting.

"§115C-125. Free textbooks and State purchase and rental system.—The Schools for the Deaf shall have the right and privilege of participating in the distribution of free textbooks and in the purchase and rental system operated by the State of North Carolina in the same manner as any other public school in the State.

"§115C-126. Agreements with local governing authorities.—The Department is authorized to make such agreements with the governing authority of any municipality, or of any county, as may be mutually agreed upon, to promote convenience and economy for joint water supply, lighted areas, use of sewage facilities, or any other utilities or facilities that may be necessary and as may be agreed upon.


"§115C-127. Incorporation name and management.—The institution for the education of the blind, located in the City of Raleigh, shall be a corporation under the name and style of the Governor Morehead School, and shall be under the management of the Department of Human Resources and the director of the school.

"§115C-128. Admission of pupils; how admission obtained.—The Department of Human Resources shall, on application, receive in the institution for the purpose of education all blind children who are residents of this State and who are between the ages of five and 18 years: Provided, that pupils who are not within the age limits above set forth may be admitted to said institution in cases in which the Department of Human Resources finds that the admission of such pupils will be beneficial to them and in cases in which there is sufficient space available for their admission in said institution: Provided, further, that the Department of Human Resources is authorized to make expenditures, out of any scholarship funds or other funds already available or appropriated, of sums of money for the use of out-of-state facilities for any student who, because of peculiar conditions or disability, cannot be properly educated at the school in Raleigh.

"§115C-129: Reserved for future codification purposes.

"§115C-130. Admission of pupils from other states.—The Department of Human Resources may, on such terms as it deems proper and upon the receipt of tuition and necessary expenses as prescribed by the Department of Human Resources, admit as pupils persons of like infirmity from any other state but such power shall not be exercised to the exclusion of any child of this State, and the person so admitted shall not acquire the condition of a resident of the State by virtue of such pupilage.

"§115C-131. Department of Human Resources may confer diplomas.—The Department of Human Resources may, upon the recommendation of the superintendent and faculty, confer such diplomas or marks of achievement upon its graduates as it may deem appropriate to encourage merit.

"§115C-132. State Treasurer is ex officio treasurer of institution.—The State Treasurer shall be ex officio treasurer of the institution. He shall report to the Department of Human Resources at such times as they may call on him, showing the amount received on account of the institution, amount paid out, and amount on hand.
“§ 115C-133. When clothing, etc., for pupils paid for by county.—Where it shall appear to the satisfaction of the director of social services and the chairman of the board of county commissioners of any county in this State that the parents of any blind child residing in such county are then unable to provide such child with clothing or traveling expenses or both to and from the Governor Morehead School, or where such child has no living parent, or any estate of his own, or any person, or persons, upon which he is legally dependent who are able to provide expenses for such transportation and clothing, then upon the demand of the institution which such child attends or has been accepted for attendance, said demand being made through the State Auditor, the board of county commissioners of the county in which such child resides shall issue or cause to be issued its warrant payable to the State Auditor, same to be credited to the proper institution, for the payment of an amount sufficient to clothe and pay traveling expenses of said child.


“§ 115C-134. Creation powers.—The corporation created by Chapter 47, Private Laws of 1887, is hereby continued as a body corporate for a period of 60 years from March 8, 1927, under the name and style of "The Central Orphanage of North Carolina." The said corporation shall have power to receive, purchase, and hold property, real and personal, not to exceed in value one million dollars ($1,000,000), to sue and be sued, to plead and be impleaded, to receive gifts, donations and appropriations, to contract, and to do all other acts usual and necessary in the conduct of such corporation, and to carry out the intent and purposes thereof under and as subscribed by the laws of North Carolina.

“§ 115C-135. Directors selection, self-perpetuation, management of corporation.—The board of directors of the Central Orphanage of North Carolina shall consist of 13 members which shall organize by the election of a president and secretary and shall make all necessary bylaws and regulations for the convenient and efficient management and control of the affairs of said corporation, including the method by which successors to the directors herein named shall be chosen.

“§ 115C-136. Board of trustees; appropriations; treasurer; board of audit.—Five members of said board of directors shall also serve as a board of trustees of said Central Orphanage of North Carolina. The said board of trustees so appointed shall serve for a term of four years and until their successors are chosen. All appropriations made by the General Assembly to the said Central Orphanage of North Carolina shall be under the control of the board of trustees, and said appropriations shall be expended under their supervision and direction. The board of trustees shall select one of their members as a treasurer of the fund appropriated to the institution by the General Assembly and also not more than two persons to act as a board to audit the expenditure of such appropriation. The treasurer shall receive a salary of one hundred dollars ($100.00) per year for his services and members of the board of audit a salary not to exceed one hundred fifty dollars ($150.00) per year. The treasurer shall give a bond payable to the State of North Carolina in a surety company in such sum as the board of trustees may require, the annual premium to be paid out of the funds of the said Orphanage.

“§ 115C-137. Training of orphans.—The said corporation shall receive, train and care for such orphan children of the State of North Carolina as under the rules and regulations of said corporation may be deemed practical and
expedient, and impart to them such mental, moral and industrial education as may fit them for usefulness in life.

"§ 115C-138. Control over orphans.—The said corporation shall have power to secure the control of such orphans by the written consent of their nearest of kin of those having control of such orphans, and shall receive such others as may be committed to its care under the appropriate laws of the State; and it shall be unlawful for any person or persons to interfere in any way with said corporation in the management of such orphans after they shall have been entered and received by it. The board of directors shall make all necessary rules and regulations for the reception and discharge of children from said Orphanage.

"Part 10. State and Local Relationships.

"§ 115C-139. Interlocal cooperation.—(a) The Board, any two or more local educational agencies and any such agency and any State department, agency, or division having responsibility for the education, treatment or habilitation of children with special needs are authorized to enter into interlocal cooperation undertakings pursuant to the provisions of Chapter 160A, Article 20, Part 1 of the General Statutes or into undertakings with a State agency such as the Departments of Public Instruction, Human Resources, or Correction, or their divisions, agencies, or units, for the purpose of providing for the special education and related services, treatment or habilitation of such children within the jurisdiction of the agency or unit, and shall do so when it itself is unable to provide the appropriate public special education or related services for such children. In entering into such undertakings, the local agency and State department, agency, or division shall also contract to provide the special education or related services that are most educationally appropriate to the children with special needs for whose benefit the undertaking is made, and provide such services by or in the local agency unit or State department, agency, or division located in the place most convenient to such children.

(b) Local educational agencies may establish special education and related programs for children with special needs aged birth through four and 19 through 21 inclusive.

"§ 115C-140. Contracts with private service-providers.—State departments, agencies and divisions and local educational agencies furnishing special education and related services to children with special needs may contract with private special education facilities or service providers to furnish such services as the public providers are unable to furnish. No contract between any public and private service provider shall be effective until it has received the prior written approval of the Board. The Board shall not withhold its approval of the contract unless the private facilities and providers do not meet the Board's standards established pursuant to G.S. 115C-110(a), (b)(5), and (d)(2).


"§ 115C-141. Board Rules and Regulations.—The Board shall adopt rules and regulations for the administration of this Article. The Board shall provide technical assistance to the various concerned agencies at their request.


"§ 115C-142. Nonreduction.—Notwithstanding any of the other provisions of this Article, it is the intent of the General Assembly that funds appropriated by it for the operation of programs of special education and related services by local school administrative units not be reduced; rather, that adequate funding
be made available to meet the special educational and related services needs of children with special needs, without regard to which State or local department, agency, or unit has the child in its care, custody, control, or program.


"§ 115C-143. Budget analysis.—The Division of Fiscal Research of the Legislative Services Office of the General Assembly shall conduct an annual budget analysis of the budgets of the Departments of Human Resources and Correction to determine what funds are expended by those departments for programs of special education and related services for children with special needs, aged birth through 21, and shall submit a report of its analysis to the General Assembly, the Governor, and the State Board of Education and the Departments of Human Resources and Correction no later than October 1, of each year.

"§ 115C-144. Departmental requests.—All budget requests for funding of new or existing or for the expansion of existing programs of special education and related services for children with special needs, aged birth through 21, to be furnished or provided by the Departments of Human Resources and Correction shall be annually submitted by those departments to the Board for review and comment prior to presentation by the respective department to the Advisory Budget Commission.

"§ 115C-145. Allocation of federal funds.—At such time as any federal moneys for the special education and related services for children with special needs are made available, these funds shall be allocated according to a formula designed by the Board not inconsistent with federal laws and regulations. Such formula shall insure equitable distribution of resources based upon the number of children with special needs served by the respective agencies, and shall be implemented as funds are made available from federal and State appropriations.

"§ § 115C-146 to 115C-150: Reserved for future codification purposes.

"ARTICLE 10.

"Vocational Education.

"Part 1. Vocational Education Programs.

"§ 115C-151. Statement of purpose.—It is the intent of the General Assembly that vocational education be an integral part of the educational process. The State Board of Education is authorized and directed to administer through local boards of education a comprehensive program of vocational education which shall be available to all students who desire it in the public secondary schools of this State. The purposes of vocational education in North Carolina public secondary schools shall be:

(1) Vocational Skill Development.—To prepare individuals for paid or unpaid employment in recognized occupations, new occupations, and emerging occupations.

(2) Preparation for Advanced Education.—To prepare individuals for participation in advanced or highly skilled vocational and technical education.

(3) Pre-Vocational; Introductory.—To assist individuals in the making of informed and meaningful occupational choices.

It is also legislative intent to authorize the State Board of Education to support appropriate vocational education instruction and related services for individuals who have other specialized vocational education needs which can be fulfilled through a comprehensive vocational education program as designated by State Board of Education policy or federal vocational education legislation.
"§115C-152. Definitions.—The State Board of Education is authorized and directed to provide appropriate definitions to vocational education programs, services, and activities in grades 7-12 not otherwise included in this Part. As used in this Part, unless the context requires otherwise:

1) 'Comprehensive vocational education' means instructional programs, services, or activities directly related to preparation for and placement in employment, for advanced technical education, or for the making of informed and meaningful occupational choices.

2) 'Preparation for advanced education' means a program, service, or activity designed to prepare individuals for participation in advanced or highly skilled post-secondary and technical education programs leading to employment in specific occupations or a cluster of closely related occupations and for participation in vocational education teacher education programs.

3) 'Pre-vocational; introductory' means an instructional program, service, or activity designed to familiarize individuals with the broad range of occupations for which special skills are required and the requisites for careers in such occupations.

4) 'Vocational skill development' means a program, service, or activity designed to prepare individuals for paid or unpaid employment as semi-skilled or skilled workers, technicians, or professional-support personnel in recognized occupations and in new and emerging occupations including occupations or a trade, technical, business, health, office, homemaking, homemaking related, agricultural, distributive, and other nature. Instruction is designed to fit individuals for initial employment in a specific occupation or a cluster of closely related occupations in an occupational field. Such instruction includes education in manipulative skills, theory, auxiliary information, and other associated knowledges.

"§115C-153. Administration of vocational education.—The State Board of Education shall be the sole State agency for the State administration of vocational education at all levels, shall be designated as the State Board of Vocational Education, and shall have all necessary authority to cooperate with any and all federal agencies in the administration of national acts assisting vocational education, to administer any legislation pursuant thereto enacted by the General Assembly of North Carolina, and to cooperate with local boards of education in providing vocational and technical education programs, services, and activities for youth and adults residing in the areas under their jurisdiction.

"§115C-154. Duties of the State Board of Education.—In carrying out its duties, the State Board of Education shall have full authority to develop and implement such policies, rules, regulations, and procedures as necessary to ensure vocational education programs of high quality. The State Board of Education shall prepare a Master Plan for Vocational Education. Such plan, to be updated periodically, shall ensure minimally that:

1) Articulation will occur with institutions, agencies, councils, and other organizations having responsibilities for manpower development.

2) Business, industrial, agricultural, and lay representatives have been utilized in the development of decisions affecting vocational education programs and services.

3) Public hearings are conducted annually to afford the public an opportunity to express their views concerning the State Board’s plan to suggest changes in the plan.
(4) The plan describes the State's policy for vocational education and the system utilized for the delivery of vocational education programs, services, and activities.

(5) A professionally and occupationally qualified staff is employed and organized in a manner to assure efficient and effective State leadership for vocational education. Provisions will be made for such functions as: planning, administration, supervision, curriculum development, research and evaluation, and such others as the State Board may direct.

(6) An appropriate supply of qualified personnel is trained for program expansion and replacements through cooperative arrangements with institutions of higher education and other institutions or agencies, including where necessary financial support of programs and curriculums designed for the preparation of vocational administrators, supervisors, coordinators, instructors, and support personnel.

(7) Minimum standards shall be prescribed for personnel employed at the State and local levels.

(8) Local boards of education submit to the State Board of Education a local plan for vocational education which has been prepared in accordance with the procedures set forth in the Master Plan for Vocational Education.

(9) Appropriate minimum standards for vocational education programs, services, and activities shall be established, promulgated, supervised, monitored, and maintained. Such standards shall specify such characteristics as program objectives, skill competencies, course sequence, program duration, class size, supervised on-the-job experiences, qualifications of instructors, and all other standards necessary to ensure that all programs conducted by local school administrative units shall be of high quality, relevant to student needs, and coordinated with employment opportunities.

(10) A system of continuing qualitative and quantitative evaluation of all vocational education programs, services, and activities supported under the provisions of this Part shall be established, maintained, and utilized periodically. One component of such system shall be follow-up studies of former students of vocational education programs who have been out of school for one year, for three years, and for five years to ascertain the effectiveness of instruction, services, and activities.

"§ 115C-155. Acceptance of benefits of federal vocational acts.—The State of North Carolina, through the State Board of Education, shall be empowered to accept all the provisions and benefits of acts passed by the Congress of the United States providing federal funds for vocational and technical education programs: Provided, however, that the State Board of Education is not authorized to accept such funds upon any condition that the public schools of this State shall be operated contrary to any provision of the Constitution or statutes of this State."

"§ 115C-156. State funds for vocational education.—It is the intent of the General Assembly of North Carolina to appropriate funds for each fiscal year to support the purposes of vocational education as set forth in G.S. 115C-151. From funds appropriated, the State Board of Education shall establish a sum of money for State administration of vocational education and shall allocate the remaining sum on an equitable basis to local school administrative units, except that a contingency fund is established to correct excess deviations which may occur during the regular school year. In the administration of State funds, the
State Board of Education shall adopt such policies and procedures as necessary to ensure that the funds appropriated are used for the purpose stated in this Part and consistent with the policy set forth in the Master Plan for Vocational Education.

"§ 115C-157. Responsibility of local boards of education.—Each local school administrative unit, shall provide free appropriate vocational education instruction, activities, and services in accordance with the provisions of this Part for all youth who elect such instruction and shall have responsibility for administering such in accordance with federal and State law and State Board of Education policies.

"§ 115C-158. Federal funds division.—The division between secondary and post-secondary educational systems and institutions of federal funds for which the State Board of Vocational Education has responsibility shall, within discretionary limits established by law, require the concurrence of the State Board of Education and the State Board of Community Colleges on and after January 1, 1981. The portion of the approved State Plan for post-secondary vocational education required by G.S. 115C-154 shall be as approved by the State Board of Community Colleges.

"Part 2. Vocational Education Production Work Activities.

"§ 115C-159. Statement of purpose.—It is the intent of the General Assembly that practical work experiences within the school and outside the school, which are valuable to students and which are under the supervision of a teacher, should be encouraged as a part of vocational education instruction in the public secondary schools when such experiences shall be organized and maintained to the best advantage of the vocational education programs. Local boards of education are authorized to use available financial resources to support such instruction.

"§ 115C-160. Definitions.—The State Board of Education is authorized and directed to provide appropriate definitions necessary to this part of vocational education instruction not otherwise included in this Part. As used in this Part, unless the context requires otherwise:

(1) The term 'building trades training' means the development of vocational skills through the construction of dwellings or other buildings and related activities by students in vocational education programs.

(2) The term 'production work' means production activities and services performed by vocational education classes under contract with a second party for remuneration.

"§ 115C-161. Duties of the State Board of Education.—The State Board of Education is authorized and directed to establish, maintain, and implement such policies, rules, regulations, and procedures not in conflict with State law or other State Board policies as necessary to assist local boards of education in the conduct of production work experiences performed in connection with approved State Board of Education vocational education programs.

"§ 115C-162. Use of proceeds derived from production work.—Unless elsewhere authorized in these statutes, local boards of education are authorized and directed to deposit to the appropriate school account, no later than the end of the next business day after receipt of funds, all proceeds derived from the sale of products or services from production work experiences. Such proceeds shall be established as a revolving fund to be used solely in operating and improving vocational education programs.
§115C-163. Acquisition of land for agricultural education instructional programs.—Local boards of education are authorized and empowered to acquire by gift, purchase, or lease for not less than the useful life of any project to be conducted upon the premises, a parcel of land suitable for a land laboratory to provide students with practical instruction in soil science, plant science, horticulture, forestry, animal husbandry, and other subjects related to the agriculture curriculum.

Each deed, lease, or other agreement for such land shall be made to the respective local board of education in which the school offering instruction in agriculture is located; and title to such land shall be examined and approved by the school attorney.

Any land laboratory thus acquired shall be assigned to the agricultural education program of the school, to be managed with the advice of an agricultural education advisory committee.

The products of the land laboratory not needed for public school purposes may be sold to the public: Provided, however, that all proceeds from the sale of products shall be deposited in the appropriate school account no later than the end of the next business day after receipt of funds. Such proceeds shall be established as a revolving fund to be used solely in operating and improving vocational education programs.

§115C-164. Building trades training.—In the establishment and implementation of production work experience policies, the State Board of Education shall be guided as follows:

1. Local boards of education are authorized to use supplementary tax funds or other local funds available for the support of vocational education to purchase and develop suitable building sites on which dwellings or other buildings are to be constructed by vocational education trade classes of each public school operated by local boards of education. Local boards of education are authorized to use such funds for each school to pay the fees necessary in securing and recording deeds to these properties for each public school operated by local boards of education and to purchase all materials needed to complete the construction of buildings by vocational education trade classes and for development of site and property by other vocational education classes. Local boards of education are further authorized to expend such funds in acquiring skilled services, including electrical, plumbing, heating, sewer, water, transportation, grading, and landscaping needed in the construction and completion of buildings which cannot be supplied by the students in vocational education trade classes.

2. Local boards of education are authorized, in conjunction with or in lieu of subdivision (1) above, to contract with recognized building trades educational foundations or associations in the purchase of land for the construction and development of buildings: Provided however, that all contracts are in accordance with the requirements set forth by the State Board of Education.

§115C-165. Advisory committee on construction projects.—The board of education of the local school administrative unit in which the proposed project of construction is to be undertaken shall appoint an advisory committee composed of no less than five persons residing within that administrative unit of which no less than three will be associated with the building trades industry, and no building trades project shall be undertaken without the approval of a majority of the advisory committee.
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"§ 115C-166. Eye protection devices required in certain courses.—The governing board or authority of any public or private school or educational institution within the State, wherein shops or laboratories are conducted providing instructional or experimental programs involving:
(1) Hot solids, liquids or molten metals;
(2) Milling, sawing, turning, shaping, cutting, or stamping of any solid materials;
(3) Heat treatment, tempering, or kiln firing of any metal or other materials;
(4) Gas or electric arc welding;
(5) Repair or servicing of any vehicle; or
(6) Caustic or explosive chemicals or materials, shall provide for and require that every student and teacher wear industrial quality eye protective devices at all times while participating in any such program. These industrial quality eye protective devices shall be furnished free of charge to the student and teacher.

"§ 115C-167. Visitors to wear eye safety devices.—Visitors to such shops and laboratories shall be furnished with and required to wear such eye safety devices while such programs are in progress.

"§ 115C-168. 'Industrial-quality eye protective devices' defined.—'Industrial-quality eye protective devices', as used in G.S. 115C-166, means devices meeting the standards of the U.S.A. Standard Practice for Occupational and Educational Eye and Face Protection, Z 87.1-1968 approved by the U.S.A. Standards Institute, Inc.

"§ 115C-169. Corrective-protective devices.—In those cases where corrective-protective devices that require prescription ophthalmic lenses are necessary, such devices shall only be supplied by those persons licensed by the State to prescribe or supply corrective-protective devices.

"§§ 115C-170 to 115C-174: Reserved for future codification purposes.

"ARTICLE 11.

"High School Competency Testing.

"§ 115C-175. Purpose.—The State Board of Education shall adopt tests or other measurement devices which may be used to assure that graduates of the public high schools and graduates of nonpublic high schools supervised by the State Board of Education pursuant to the provisions of Part 1 of Article 39 of this Chapter possess those skills and that knowledge necessary to function independently and successfully in assuming the responsibilities of citizenship. This Article has three purposes: to assure that all high school graduates possess those minimum skills and that knowledge thought necessary to function as a member of society, to provide a means of identifying strengths and weaknesses in the education process, and to establish additional means for making the education system accountable to the public for results.

"§ 115C-176. Competency Test Commission.—(a) The Governor shall appoint a Competency Test Commission which shall be composed of 15 members who shall hold office for four years or until their successors are appointed. Any vacancy on the Competency Test Commission shall be filled by the Governor for the unexpired term. Five members of the Competency Test Commission shall be persons serving as teachers or principals in high schools; five shall be citizens of the State interested in education; two shall be professional educators from the faculties of institutions of higher education in the State; two shall be persons competent in the field of psychological measurement; and one shall be
the superintendent of a local school administrative unit in the State. The
members shall be entitled to compensation for each day spent on the work of
the Competency Test Commission as approved by the State Board of Education
and receive reimbursement for travel and subsistence expenses incurred in the
performance of their duties at rates specified in G.S. 138-5 or G.S. 138-6,
whichever is applicable to the individual member. All currently employed
teachers serving on the Commission shall be entitled to receive full pay for each
day spent on the work of the Commission without any reduction in salary for a
substitute teacher's pay.

(b) The Superintendent of Public Instruction, or his designee, shall serve as
an ex officio, nonvoting member of the Competency Test Commission.

"§115C-177. Duties of the Commission.—The Competency Test Commission
shall annually advise the State Board of Education on matters pertaining to the
use of high school graduation competency tests.

"§115C-178. Administration of the Test.—The tests shall be administered
annually to all eleventh grade students in the public school. Students who fail
to attain the required minimum standard for graduation in the eleventh grade
shall be given remedial instruction and additional opportunities to take the test
up to and including the last month of the twelfth grade. Students who fail to
pass parts of the test shall be retested on only those parts they fail. Students in
the eleventh grade who are enrolled in special education programs or who have
been officially designated as eligible for participation in such programs may be
excluded from the testing programs.

"§115C-179. Duties of Superintendent of Public Instruction.—The Superintendent of Public Instruction shall be responsible, under policies
adopted by the State Board of Education, for administering the Competency
Testing Program provided for by this Article and for providing necessary staff
services to the Competency Test Commission.

"§115C-180. Duties of State Board of Education.—The State Board of
Education shall adopt tests, graduation standards, and policies and procedures
for the implementation of this Article.

"§115C-181. Duties of local school boards.—Local boards of education shall
cooperate with the State Board of Education in carrying out the policies and
guidelines adopted by the State Board of Education for implementing this
Article.

"§115C-182. Public records exception.—Any written material containing the
identifiable scores of individual students on any test taken pursuant to the
provisions of this Article shall not be considered a public record within the
meaning of G.S. 132-1 and shall not be disseminated or otherwise made
available to the public by any member of the State Board of Education, any
employee of the State Board of Education, the Superintendent of Public
Instruction, any employee of the Department of Public Instruction, any
member of a local board of education, any employee of a local board of
education, or any other person, except as permitted under the provisions of the

"§115C-183. Provisions for nonpublic schools.—The State Board of
Education may require the implementation of the testing program contemplated by this Article in nonpublic schools supervised by it pursuant to the
provisions of Part 1 of Article 39 of this Chapter.
“§ 115C-184. Remediation funds.—Funds appropriated for the purpose of remediation support for students who fail the high school competency test shall be distributed in accord with rules and regulations promulgated by the State Board of Education. The State Board of Education shall allocate remediation funds to institutions administered by the Department of Human Resources on the same basis as funds allocated to other local education agencies.

“§§ 115C-185 to 115C-188: Reserved for future codification purposes.

“ARTICLE 12.

“Statewide Testing Program.

“§ 115C-189. Purpose.—In order to assess the effectiveness of the educational process, and to insure that each pupil receives the maximum educational benefit from the educational process, the State Board of Education shall implement an annual statewide testing program in basic subjects. It is the intent of this testing program to help local school systems and teachers identify and correct student needs in basic skills rather than to provide a tool for comparison of individual students or to evaluate teacher performance. The statewide testing program shall be conducted each school year for the first, second, third, sixth and ninth grades: Provided, that criterion reference tests shall be used in the first and second grades and norm reference tests shall be used in the testing program in grades three, six and nine. Students in these grade levels who are enrolled in special education programs or who have been officially designated as eligible for participation in such programs may be excluded from the testing programs.

“§ 115C-190. State Board of Education responsibilities.—The State Board of Education shall have the responsibility and authority to make those policies necessary for the implementation of the intent and purposes of this Article, not inconsistent with the provisions of this Article.

“§ 115C-191. Appointment of Testing Commission.—(a) The Governor shall appoint a Testing Commission composed of 11 members who shall hold office for two years or until their successors are nominated and appointed. Any vacancy on the Testing Commission shall be filled by the Governor by appointment for the unexpired term. Six of the members of the Testing Commission shall be certified teachers currently employed for the grades in which tests are to be administered; two shall be persons competent in the field of psychological measurement; one shall be a school principal; one shall be a supervisor of elementary instruction; and one shall be the superintendent of a local school administrative unit. The members of the Testing Commission shall be entitled to compensation for each day spent on the work of the Testing Commission, as approved by the State Board of Education, and receive reimbursement for travel and subsistence expense incurred in the performance of their duties at the rates specified in G.S. 138-5 or G.S. 138-6, whichever is applicable to the individual member. All currently employed teachers serving on the Commission shall be entitled to receive their full pay for each school day spent on the work of the Commission without any reduction in salary for a substitute teacher’s pay.

(b) The Superintendent of Public Instruction, or his designee, shall serve as an ex officio, nonvoting member of the Testing Commission.

“§ 115C-192. Evaluation and selection of tests.—(a) The members of the Testing Commission shall secure copies of tests designed to measure the level of academic achievement. Each of these tests shall be examined carefully and the Testing Commission shall file with the State Board of Education a written
evaluation of each of these tests along with appropriate recommendations. In evaluating a test, the Testing Commission shall give special consideration to the suitability of a test to the instructional level or special education program or level for which it is intended to be used and the validity of the test.

(b) The Testing Commission shall annually review the suitability and validity of the tests in use by the State Board of Education for the purposes of this Article and investigate the suitability and validity of other tests. A written evaluation of all tests and any recommendations considered by the Testing Commission shall be filed with the State Board of Education.

"§ 115C-193. Duties of State Board of Education.—The State Board of Education shall review the recommendations of the Testing Commission and select the tests that it believes will provide the best measures of the levels of academic achievement attained by students in various subject areas. The State Board of Education shall also establish policies and guidelines necessary for carrying out the provisions of the Article.

"§ 115C-194. Duties of Superintendent of Public Instruction.—The Superintendent of Public Instruction shall be responsible, under policies adopted by the State Board of Education, for the statewide administration of the testing program provided by this Article and for providing necessary staff services to the Testing Commission.

"§ 115C-195. Duties of local boards of education.—Local boards of education shall cooperate with the State Board of Education in implementing the provisions of this Article, including the regulations and policies established by the State Board of Education. Local school administrative units are encouraged to continue to develop local testing programs designed to diagnose student needs further.

"§ 115C-196. Public records exception.—Any written material containing the identifiable scores of individual students on any test taken pursuant to the provisions of this Article shall not be considered a public record within the meaning of G.S. 132-1 and shall not be disseminated or otherwise made available to the public by any member of the State Board of Education, any employee of the State Board of Education, the Superintendent of Public Instruction, any employee of the Department of Public Instruction, any member of a local board of education, any employee of a local board of education, or any other person, except as permitted under the provisions of the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g.

"§ 115C-197. Provisions for nonpublic schools.—The State Board of Education may require the implementation of the testing program contemplated by this Article in nonpublic schools supervised by it pursuant to the provisions of Part 1 of Article 39 of this Chapter.

"§ § 115C-198 to 115C-202: Reserved for future codification purposes.

"ARTICLE 13.

"Community Schools Act.

"§ 115C-203. Title of Article.—This Article shall be known and may be cited as the 'Community Schools Act.'

"§ 115C-204. Purpose of Article.—The purpose of this Article is to encourage greater community involvement in the public schools and greater community use of public school facilities. To this end it is declared to be the policy of this State:
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(1) To provide for increased involvement by citizens in their local schools through community schools advisory councils.

(2) To assure maximum use of public school facilities by the citizens of each community in this State.

It is further declared to be the policy of this State that, to the extent sufficient funds are made available, each local board of education shall comply with the provisions of this Article.

"§ 115C-205. Definitions.—As used in this Article:

(1) The term 'public school facility' means any education facility under the jurisdiction of a local board of education, whether termed an elementary school, middle school, junior high school, high school or union school.

(2) The term 'community schools advisory council' means a committee of citizens organized to advise community school coordinators, administrators, and local boards of education in the involvement of citizens in the educational process and in the use of public school facilities.

(3) The term 'community schools coordinator' means an employee of a local board of education whose responsibility it is to promote and direct maximum use of the public schools and public school facilities as centers for community development.

(4) The term 'interagency council' means a committee of agency and organizational representatives appointed by the Governor to work with the Superintendent of Public Instruction concerning the involvement of statewide agencies and organizations with the public schools.

"§ 115C-206. State Board of Education; duties; responsibilities.—The Superintendent of Public Instruction shall prepare and present to the State Board of Education recommendations for general guidelines for encouraging increased community involvement in the public schools and use of public school facilities. The Superintendent of Public Instruction shall consult with the interagency council in preparing the general guidelines. These recommendations shall include, but shall not be limited to provisions for:

(1) The use of public school facilities by governmental, charitable or civic organizations for activities within the community.

(2) The utilization of the talents and abilities of volunteers within the community for the enhancement of public school programs including tutoring, counseling and cultural programs and projects.

(3) Increased communications between the staff and faculty of the public schools, other community institutions and agencies, and citizens in the community.

Based on the recommendations of the Superintendent of Public Instruction, the State Board of Education shall adopt appropriate policies and guidelines for encouraging increased community involvement in the public schools and use of the public school facilities.

The State Board of Education shall establish rules and regulations governing the submission and approval of programs prepared by local boards of education for encouraging increased community involvement in the public schools and use of the public school facilities.

The State Board of Education is authorized to allocate funds to the local boards of education for the employment of community schools coordinators and for other appropriate expenses upon approval of a program submitted by a local board of education and subject to the availability of funds. In the event that a
local board of education already has sufficient personnel employed performing functions similar to those of a community schools coordinator, the State Board of Education may allocate funds to that local board of education for other purposes consistent with this Article. Funds allocated to a local board of education shall not exceed three fourths of the total budget approved in the community schools program submitted by a local board of education.

“§ 115C-207. Authority and responsibility of local boards of education.—Every local board of education which elects to apply for funding pursuant to this Article shall:

(1) Develop programs and plans for increased community involvement in the public schools based upon policies and guidelines adopted by the State Board of Education.

(2) Develop programs and plans for increased community use of public school facilities based upon policies and guidelines adopted by the State Board of Education.

(3) Establish rules governing the implementation of such programs and plans in its public schools and submit these rules along with adopted programs and plans to the State Board of Education for approval by the State Board of Education.

Programs and plans developed by a local board of education shall provide for the establishment of one or more community schools advisory councils for the public schools under the board’s jurisdiction and for the employment of one or more community schools coordinators. The local board of education shall establish the terms and conditions of employment for the community schools coordinators.

Every local board of education which elects to apply for funding pursuant to this Article shall have the authority to enter into agreements with other local boards of education, agencies and institutions for the joint development of plans and programs and the joint expenditure of funds allocated by the State Board of Education. Local funds from each local board of education applying for funds for the community schools program must equal at least one fourth of the total budget for the community schools program of said local board of education.

“§ 115C-208. Community schools advisory councils; duties; responsibilities; membership.—Every participating local board of education shall establish one or more community schools advisory councils which may become involved in matters affecting the educational process in accordance with rules established by the local board of education and approved by the State Board of Education and further shall consider ways of increasing community involvement in the public schools and utilization of public school facilities. Community schools advisory councils may assist local boards of education in the development and preparation of the plans and programs to achieve such goals, may assist in the implementation of such plans and programs and may provide such other assistance as may be requested by the local boards of education.

Community schools advisory councils shall work with local school officials and personnel, parent-teacher organizations, and community groups and agencies in providing maximum opportunities for public schools to serve the communities, and shall encourage the maximum use of volunteers in the public schools.

At least one half of the members of each community schools advisory council shall be the parents of students in the particular public school system:
Provided, that less than twenty-five percent (25%) of the pupils attending a particular school reside outside the immediate community of the school, at least one half of the members shall be parents of students in the particular school for which the advisory council is established. Wherever possible the local board of education is encouraged to include at least one high school student. The size of the councils and the terms of membership on the councils shall be determined by the local board of education in accordance with the State guidelines.

“§ 115C-209. Community schools coordinators.—Every participating local board of education shall employ one or more community schools coordinators and shall establish the terms and conditions of their employment. Community schools coordinators shall be responsible for:

1) Providing support to the community schools advisory councils and public school officials.

2) Fostering cooperation between the local board of education and appropriate community agencies.

3) Encouraging maximum use of community volunteers in the public schools.

4) Performing such other duties as may be assigned by the local superintendent and the local board of education, consistent with the purposes of this Article.

“§§ 115C-210 to 115C-214: Reserved for future codification purposes.

“ARTICLE 14.

“Driver Education.

“§ 115C-215. Instruction in driver training and safety education.—There shall be organized and administered under the general supervision of the Superintendent of Public Instruction a program of driver training and safety education in the public schools of this State, said courses to be noncredit courses taught by instructors approved by the Department of Public Instruction.

“§ 115C-216. Boards of education required to provide courses in operation of motor vehicles.—(a) Course of Training and Instruction Required in Public High Schools.—The State Board of Education and local boards of education are hereby required to provide as a part of the program of the public high schools in this State a course of training and instruction in the operation of motor vehicles and to make such courses available for all persons of provisional license age, including public school students, nonpublic school students and out-of-school youths under 18 years of age whose physical and mental qualifications meet license requirements, in conformance with course requirements and funds made available under the provisions of G.S. 20-88.1 or as hereinafter provided or both.

(b) Inclusion of Expense in Budget.—The local boards of education of every local school administrative unit are hereby authorized to include as an item of instructional service and as a part of the current expense fund of the budget of the several high schools under their supervision, the expense necessary to install and maintain such a course of training and instructing eligible persons in such schools in the operation of motor vehicles.

(c) Appropriations.—The boards of county commissioners in the several counties of the State and the governing bodies of all municipalities having power to appropriate and raise money by taxation and otherwise are hereby authorized to appropriate funds necessary to pay the expenses necessary to install and maintain in any public high school under their supervision a course

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of training and instruction for eligible students in such schools in the operation of motor vehicles, whether or not the county board of education or administrative unit shall have included the cost of the same in its budget request when submitted for approval.

(d) How Moneys Appropriated May Be Provided.—The board of county commissioners and the governing bodies of all municipalities having power to appropriate money and to levy taxes and raise money are hereby authorized to allocate and expend the moneys appropriated pursuant to this section or other acts of the General Assembly and the moneys provided by taxation, by sale or rental of any real or personal property owned by such county or other taxing unit, or by use of any surplus funds on hand or acquired from any source, for the purpose of funding any such course of instruction and training in any public high school. The special approval of the General Assembly is hereby given for the levying of taxes for such purpose and for providing funds for such purpose by the other means herein mentioned.

(e) Content of Course; What Persons Eligible.—The words ‘a course of training and instruction for eligible persons in the operation of motor vehicles’ as applied to this section means such course of instruction in the operation of motor vehicles prescribed or approved by the Department of Public Instruction, provided that every such course shall include actual operation of motor vehicles by the persons eligible for same, under the supervision of a qualified instructor. Only such persons older than 14 years and six months, who are approved by the principal of the school, shall be eligible for such course of instruction, subject to rules and regulations prescribed by the Department of Public Instruction.

(f) Acts Ratified and Confirmed.—The acts of all boards of county commissioners and the governing bodies of all municipalities, the acts of all local boards of education, and the acts of the State Board of Education heretofore done in connection with providing courses of training and instruction in the operation of motor vehicles in this State, including the appropriation and expenditure of funds for such purpose, are hereby ratified and confirmed.

§ 115C-217 to 115C-221: Reserved for future codification purposes.

"ARTICLE 15.

"North Carolina School of Science and Mathematics.

"§ 115C-222. Establishment of North Carolina School of Science and Mathematics.—The North Carolina School of Science and Mathematics is established to be governed by a board of trustees described in this Article.

"§ 115C-223. Board of Trustees; appointment; terms of office.—(a) The Board of Trustees of the North Carolina School of Science and Mathematics consists of the following members:

(1) Five ex officio nonvoting members: the Chairman of the State Board of Education; the Superintendent of Public Instruction; the President of the Community College System; the President of the Association of Independent Colleges and Universities; and one member of the Board of Governors of The University of North Carolina designated by the Chairman of that Board.

(2) Two members appointed by the Superintendent of Public Instruction: a science teacher; and a mathematics teacher; both of whom are from within the State.
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(3) Two members appointed by the Lieutenant Governor: a member of the Senate; and a superintendent of a local school administrative unit.

(4) Two members appointed by the Speaker of the House of Representatives: a member of the House; and a principal of a local school administrative unit.

(5) Fifteen members appointed by the Governor, at least 12 of whom shall be scientists and mathematicians. One of these scientists or mathematicians shall be designated by the Governor as Chairman of the Board of Trustees.

(b) The terms of the appointments of the Lieutenant Governor and of the Speaker of the House shall coincide with the terms of the particular appointing officer. The two initial appointments of the Superintendent of Public Instruction shall be for terms of four years. Five of the initial appointments of the Governor shall be for terms of two years; five shall be for terms of four years; and five shall be for terms of six years. With the exception of the appointments of the Lieutenant Governor and Speaker of the House, at the expiration of the terms of the initial appointees, their successors shall be appointed for terms of six years, beginning July 1 in the year of the respective appointments.

(c) Vacancies in appointive terms shall be filled for the unexpired portion of the terms by appointment of the officer who appointed the person causing each vacancy.

"§ 115C-224. Budget preparation; submission.—The Board of Trustees, assisted by administrative staff, shall prepare budgets for the School and shall submit these budgets directly to the Governor.

"§ § 115C-225 to 115C-229: Reserved for future codification purposes.

"ARTICLE 16.

"Optional Programs.


"§ 115C-230. Special projects.—Local boards of education are authorized to sponsor or conduct educational research and special projects pursuant to the provisions of G.S. 115C-47(h).

"Part 2. Adult Education.

"§ 115C-231. Adult education programs; tuition; limitation of enrollment of pupils over 21.—(a) When in the judgment of the State Board of Education a program of adult education should be established as a part of the public school system and when appropriations have been made therefor, there shall be organized and administered under the general supervision of the Superintendent of Public Instruction, a course in adult education: Provided, that local boards of education, in their discretion, may institute and support such programs from local funds upon the approval of the State Board of Education.

(b) Tuition shall be free of charge to every person of the State 18 years of age, or over, who has not completed a standard high school course of study.

(c) Unless otherwise assigned by the local board of education, all persons of the district or attendance area who have not completed the prescribed course for graduation in the high school are entitled to attend the schools in the district or attendance area in which they reside: Provided, the superintendent, or the principal with the approval of the superintendent, of the local school
administrative unit may, in his discretion, prohibit the enrollment of or remove from school any pupil who has attained the age of 21 years.


"§ 115C-232. Local financing of summer schools.—Supplementary funds authorized in special tax elections for school purposes may be used to establish and maintain summer schools, as provided in G.S. 115C-501(a).

"§ 115C-233. Operation of summer schools.—Each local school administrative unit may establish and maintain summer schools. Such summer schools as may be established shall be administered by local boards of education and shall be conducted in accordance with standards developed by the State Board of Education. The standards so developed shall specify the requirements for approved curriculum, the qualifications of the personnel, the length of the session, and the conditions under which students may be granted credit for courses pursued during a summer school. In determining the eligibility of students for admission to summer schools, boards of education shall be governed by the provisions of G.S. 115C-116, 115C-366(b) and 115C-367 to 115C-370. Boards of education of local school administrative units may provide for summer schools from funds made available for that purpose by the State Board of Education, funds appropriated to the local school administrative unit by the tax-levying authority, and from any other revenues available for the purpose.

"§§ 115C-234 to 115C-238: Reserved for future codification purposes.

"ARTICLE 17.

"Supporting Services


"§ 115C-239. Authority of local boards of education.—Each local board of education is hereby authorized, but is not required, to acquire, own and operate school buses for the transportation of pupils enrolled in the public schools of such local school administrative unit and of persons employed in the operation of such schools within the limitations set forth in G.S. 115C-239 to 115C-246, 115C-248 to 115C-249, 115C-250(d), 115C-251 to 115C-254 and 115C-256 to 115C-261. Boards of education which own and operate school buses for the transportation of pupils shall have authority to establish separate systems of transportation for pupils attending elementary schools and for pupils attending junior or senior high schools. Each such board may operate such buses to and from such of the schools within the local school administrative unit, and in such number, as the board shall from time to time find practicable and appropriate for the safe, orderly and efficient transportation of such pupils and employees to such schools.

"§ 115C-240. Authority and duties of State Board of Education.—(a) The State Board of Education shall have no authority over or control of the transportation of pupils and employees upon any school bus owned and operated by any local board of education, except as provided in G.S. 115C-239 to 115C-246, 115C-248 to 115C-249, 115C-250(d), 115C-251 to 115C-254 and 115C-256 to 115C-261.

(b) The State Board of Education shall be under no duty to supply transportation to any pupil or employee enrolled or employed in any school. Neither the State nor the State Board of Education shall in any manner be liable for the failure or refusal of any local board of education to furnish transportation, by school bus or otherwise, to any pupil or employee of any
school, or for any neglect or action of any county or city board of education, or any employee of any such board, in the operation or maintenance of any school bus.

c) The State Board of Education shall from time to time adopt such rules and regulations with reference to the construction, equipment, color, and maintenance of school buses, the number of pupils who may be permitted to ride at the same time upon any bus, and the age and qualifications of drivers of school buses as it shall deem to be desirable for the purpose of promoting safety in the operation of school buses. No school bus shall be operated for the transportation of pupils unless such bus is constructed and maintained as prescribed in such regulations and is equipped with adequate heating facilities, a standard signaling device for giving due notice that the bus is about to make a turn, an alternating flashing stoplight on the front of the bus, an alternating flashing stoplight on the rear of the bus, and such other warning devices, fire protective equipment and first aid supplies as may be prescribed for installation upon such buses by the regulation of the State Board of Education.

d) The State Board of Education shall, when requested so to do by any local board of education, but not otherwise, advise such local board with reference to the establishment and amendment of school bus routes, the acquisition and maintenance of school buses, or any other question which may arise in connection with the organization and operation of the school bus transportation system of such local board.

e) The State Board of Education shall allocate to the respective local boards of education all funds appropriated from time to time by the General Assembly for the purpose of providing transportation to the pupils enrolled in the public schools within this State. All such funds shall be allocated by the State Board of Education in accordance with the number of pupils to be transported, the length of bus routes, road conditions and all other circumstances affecting the cost of the transportation of pupils by school bus to the end that the funds so appropriated may be allocated on a fair and equitable basis, according to the needs of the respective local school administrative units and so as to provide the most efficient use of such funds. Such allocation shall be made by the State Board of Education at the beginning of each fiscal year, except that the State Board may reserve for future allocation from time to time within such fiscal year as the need therefor shall be found to exist, a reasonable amount not to exceed ten percent (10%) of the total funds available for transportation in such fiscal year from such appropriation.

f) Upon such allocation by the State Board of Education, all funds so appropriated by the General Assembly shall be paid over to the respective local boards of education in accordance with such allocation in equal monthly installments throughout the regular school year: Provided, however, that upon the request of a local board of education, the State Board of Education may, in its discretion, pay over to the local board all or any part of any or all monthly installments prior to the time when the same would otherwise be payable. The respective local boards shall use such funds for the purposes of replacing, maintaining, insuring, and operating public school buses and service vehicles in accordance with the provisions of G.S. 115C-239 to 115C-246, 115C-248 to 115C-249, 115C-250(d), 115C-251 to 115C-254 and 115C-256 to 115C-261, and for no other purpose, but in the making of expenditures for such purposes shall be subject to no control by the State Board of Education.
"§ 115C-241. Assignment of school buses to schools.—The superintendent of the schools of each local school administrative unit which shall elect to operate a school bus transportation system, shall, prior to the commencement of each regular school year and subject to the approval of the local board of education, allocate and assign to the respective public schools within the jurisdiction of such local school administrative unit the school buses which the local board shall own and direct to be operated during such school year. From time to time during such school year, subject to the directions of the local board of education, the superintendent may revise such allocation and assignment of school buses in accordance with the changing transportation needs and conditions at the respective schools of such local school administrative unit, and may, pursuant to such revision, assign an additional bus or buses to a school or withdraw a bus or buses from a school in such local school administrative unit.

"§ 115C-242. Use and operation of school buses.—Public school buses may be used for the following purposes only, and it shall be the duty of the superintendent of the school of each local school administrative unit to supervise the use of all school buses operated by such local school administrative unit so as to assure and require compliance with this section:

(1) A school bus may be used for the transportation of pupils enrolled in and employees in the operation of the school to which such bus is assigned by the superintendent of the local school administrative unit. Except as otherwise herein provided, such transportation shall be limited to transportation to and from such school for the regularly organized school day, and from and to the points designated by the principal of the school to which such bus is assigned, for the receiving and discharging of passengers. No pupil or employee shall be so transported upon any bus other than the bus to which such pupil or employee has been assigned pursuant to the provisions of G.S. 115C-239 to 115C-246, 115C-248 to 115C-249, 115C-250(d), 115C-251 to 115C-254 and 115C-256 to 115C-261: Provided, that children enrolled in a Headstart program which is housed in a building owned and operated by a local school administrative unit where school is being conducted may be transported on public school buses, so long as the contractual arrangements made cause no extra expense to the State: Provided further, that children with special needs may be transported to and from the nearest appropriate private school having a special education program approved by the State Board of Education if the children to be transported are or have been placed in that program by a local school administrative unit as a result of the State or the unit's duty to provide such children with a free appropriate public education.

(2) In the case of illness or injury requiring immediate medical attention of any pupil or employee while such pupil or employee is present at the school in which such pupil is enrolled or such employee is employed, the principal of such school may, in his discretion, permit such pupil or employee to be transported by a school bus to a doctor or hospital for medical treatment, and may, in his discretion, permit such other person as he may select to accompany such pupil.

(3) The board of education of any local school administrative unit may operate the school buses of such unit one day prior to the opening of the regular school term for the transportation of pupils and employees to and from the school to which such pupils are assigned or in which they are enrolled and such employees are employed, for the purposes of the registration of students, the organization of classes, the distribution of textbooks, and such other purposes as
will, in the opinion of the superintendent of the schools of such unit, promote the efficient organization and operation of such public schools.

(4) A local board of education which elects to operate a school bus transportation system, shall not be required to provide transportation for any school employee, nor shall such board be required to provide transportation for any pupil living within one and one half miles of the school in which such pupil is enrolled.

(5) Local boards of education, under such rules and regulations as they shall adopt, may permit the use and operation of school buses for the transportation of pupils and instructional personnel as the board deems necessary to serve the instructional programs of the schools. Included in the use permitted by this section is the transportation of children with special needs, such as mentally retarded children and children with physical defects, and children enrolled in programs that require transportation from the school grounds during the school day, such as special vocational or occupational programs. On any such trip, a city or county-owned school bus shall not be taken out of the State.

If State funds are inadequate to pay for the transportation approved by the local board of education, local funds may be used for these purposes. Local boards of education shall determine that funds are available to such boards for the transportation of children to and from the school to which they are assigned for the entire school year before authorizing the use and operation of school buses for other services deemed necessary to serve the instructional program of the schools.

Children with special needs may be transported to and from the nearest appropriate private school having a special education program approved by the State Board of Education if the children to be transported have been placed in that program by a local school administrative unit as a result of the State or the unit’s duty to provide such children with a free appropriate public education.

(6) School buses owned by a local board of education may be used for Civil Preparedness purposes in any state of disaster or local state of emergency declared under Chapter 166A of the General Statutes. Under rules and regulations adopted by a local board of education, its school buses may be used with its permission for the purpose of testing civil preparedness plans; however, neither the State Board of Education nor the local board of education shall be liable for the operating cost, any compensation claims or any tort claims resulting from the test.

(7) Uses authorized by G.S. 115C-243.

"§ 115C-243. Use of school buses by senior citizen groups.—(a) Any local board of education may enter into agreements with the governing body of any county, city, or town, or with any State agency, or any agency established or identified pursuant to Public Law 89-73, Older Americans Act of 1965, to provide for the use of school buses to provide transportation for the elderly.

(b) Each agreement entered into under this section must provide the following:

(1) That the board of education shall be reimbursed in full for the proportionate share of any and all costs, both fixed and variable, of such buses attributable to the uses of the bus pursuant to the agreement.

(2) That the board of education shall be held harmless from any and all liability by virtue of uses of the buses pursuant to the agreement.
(3) That adequate liability insurance is maintained under G.S. 115C-42 to insure the board of education, and that adequate insurance is maintained to protect the property of the board of education. The minimum limit of liability insurance shall not be less than the maximum amount of damages which may be awarded under the Tort Claims Act, G.S. 143-291. The costs of said insurance shall be paid by the agency contracting for the use of the bus, either directly or through the fee established by the agreement.

(c) Before any board of education shall enter into any agreement under this section, it must by resolution establish a policy for use of school buses by the elderly. The policy must give first priority to school uses under G.S. 115C-242 and G.S. 115C-42. The resolution must provide for a schedule of charges under this section. Such resolution, if adopted, shall be amended or readopted at least once per year to provide for adjustments to the schedule of charges or to provide for maintaining the same schedule of charges. If the price bid for the service by a private bus carrier is less than the schedule of charges adopted by the board of education, then the board of education may not enter into the agreement.

(d) No board of education shall be under any duty to sign any agreement under this section.

(e) No bus operated under the provisions of this section shall travel outside of the area consisting of the county or counties where the local board of education is located and the county or counties contiguous to that county or counties, but not outside of the State of North Carolina.

(f) Before any agreement under this section may be signed, the State Board of Education shall adopt a uniform schedule of charges for the use of buses under this section. Such schedule must be approved by the Advisory Budget Commission before becoming effective. Such schedule shall include a charge by the hour and by the mile which shall cover all costs both fixed and variable, including depreciation, gasoline, fuel, labor, maintenance, and insurance. The schedule may be amended by the State Board of Education with the concurrence of the Advisory Budget Commission. The schedule of charges adopted by the local board of education under subsection (c) may vary from the State schedule only to cover changes in wages.

§ 115C-244. Assignment of pupils to school buses.——(a) The principal of a school, to which any school bus has been assigned by the superintendent of the schools of the local school administrative unit embracing such school, shall assign to such bus or buses the pupils and employees who may be transported to and from such school upon such bus or buses. No pupil or employee shall be permitted to ride upon any school bus to which such pupil or employee has not been so assigned by the principal, except by the express direction of the principal.

(b) In the event that the superintendent of any local school administrative unit shall assign a school bus to be used in the transportation of pupils to two or more schools, the superintendent shall designate the number of pupils to be transported to and from each such school by such bus, and the principals of the respective schools shall assign pupils to such buses in accordance with such designation.

(c) Any pupil enrolled in any school, or the parent or guardian of any such pupil, or the person standing in loco parentis to such pupil, may apply to the principal of such school for transportation of such pupil to and from such school
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by school bus for the regularly organized school day. The principal thereupon shall assign such pupil to a school bus serving the bus route upon which such pupil lives, if any, and if such pupil is entitled to ride upon such bus in accordance with the provisions of G.S. 115C-239 to 115C-246, 115C-248, 115C-249, 115C-250(d), 115C-251 to 115C-254 and 115C-256 to 115C-261 and the regulations of the State Board of Education herein provided for. Such assignment shall be made by the principal so as to provide for the orderly, safe and efficient transportation of pupils to such school and so as to promote the orderly and efficient administration of the school and the health, safety and general welfare of the pupils to be so transported. Assignments of pupils and employees to school buses may be changed by the principal of the school as he may from time to time find proper for the safe and efficient transportation of such pupils and employees.

(d) The parent or guardian of any pupil enrolled in any school, or the person standing in loco parentis to any such pupil, who shall apply to the principal of such school for the transportation of such pupil to and from such school by school bus, may, if such application is denied, or if such pupil is assigned to a school bus not satisfactory to such parent, guardian, or person standing in loco parentis to such pupil, pursuant to rules and regulations established by the local board of education, apply to such board for such transportation upon a school bus designated in such application, and shall be entitled to a prompt and fair hearing by such board in accordance with the rules and regulations established by it. The majority of such board shall be a quorum for the purpose of holding such hearing and passing upon such application, and the decision of the majority of the members present at such hearing shall be the decision of the board. If, at such hearing, the board shall find that pupil is entitled to be transported to and from such school upon the school bus designated in such application, or if the board shall find that the transportation of such pupil upon such bus to and from such school will be for the best interests of such pupil, will not interfere with the proper administration of such school, or with the safe and efficient transportation by school bus of other pupils enrolled in such school and will not endanger the health or safety of the children there enrolled, the board shall direct that such child be assigned to and transported to such school upon such bus.

(e) A final decision of the local board of education pursuant to G.S. 115C-244(d) shall be subject to judicial review in the manner provided by Article 4, Chapter 150A of the General Statutes: Provided, notwithstanding the provisions of G.S. 150A-45, a person seeking judicial review under this section shall not appeal the final decision of the local board of education to any State board, but shall file a petition for review in the superior court of the county where the final decision of the local board of education was made. If the court determines that the final decision of the local board of education should be set aside, then the court, notwithstanding the provisions of G.S. 150A-51, may enter an order so providing and adjudging that such child is entitled to the school bus assignment as claimed by the appellant, or such other school bus assignment as the court may find such child is entitled to, and in such case such child shall be assigned to such school bus by the local board of education concerned.

(f) No employee shall be assigned to or permitted to ride upon a school bus when to do so will result in the overcrowding of such bus or will prevent the
assignment to such bus of a pupil entitled to ride thereon, or will otherwise, in the opinion of the principal, be detrimental to the comfort or safety of the pupils assigned to such bus, or to the safe, efficient and proper operation of such bus.

“§ 115C-245. School bus drivers monitors; safety assistants.—(a) Each local board, which elects to operate a school bus transportation system, shall employ the necessary drivers for such school buses. The drivers shall have all qualifications prescribed by the regulations of the State Board of Education herein provided for and must have at least six months driving experience as a licensed operator of a motor vehicle before employment as a regular or substitute driver, but the selection and employment of each driver shall be made by the local board of education, and the driver shall be the employee of such local school administrative unit. Each local board of education shall assign the bus drivers employed by it to the respective schools within the jurisdiction of such board, and the principal of each such school shall assign the drivers to the school buses to be driven by them. No school bus shall at any time be driven or operated by any person other than the bus driver assigned by such principal to such bus except by the express direction of such principal or in accordance with rules and regulations of the appropriate local board of education.

(b) The driver of a school bus subject to the direction of the principal shall have complete authority over and responsibility for the operation of the bus and the maintaining of good order and conduct upon such bus, and shall report promptly to the principal any misconduct upon such bus or disregard or violation of the driver’s instructions by any person riding upon such bus. The principal may take such action with reference to any such misconduct upon a school bus, or any violation of the instructions of the driver, as he might take if such misconduct or violation had occurred upon the grounds of the school.

(c) The driver of any school bus shall permit no person to ride upon such bus except pupils or school employees assigned thereto or persons permitted by the express direction of the principal to ride thereon.

(d) The principal of a school, to which a school bus has been assigned, may, in his discretion, appoint a monitor for any bus so assigned to such school. It shall be the duty of such monitor, subject to the direction of the driver of the bus, to preserve order upon the bus and do such other things as may be appropriate for the safety of the pupils and employees assigned to such bus while boarding such bus, alighting therefrom or being transported thereon, and to require such pupils and employees to conform to the rules and regulations established by the local board of education for the safety of pupils and employees upon school buses. Such monitors shall be unpaid volunteers who shall serve at the pleasure of the principal.

(e) A local board of education may, in its discretion within funds available, employ transportation safety assistants upon recommendation of the principal through the superintendent. The safety assistants thus employed shall assist the bus drivers with the safety, movement, management, and care of children boarding the bus, leaving the bus, or being transported in it. The safety assistant should be either an adult or a certified student driver who is available as a substitute bus driver.

“§ 115C-246. School bus routes.—(a) The principal of the school to which a school bus has been assigned shall, prior to the commencement of each regular school year, prepare and submit to the superintendent of the local school
administrative unit a plan for a definite route, including stops for receiving and discharging pupils, for each school bus assigned to such school so as to assure the most efficient use of such bus and the safety and convenience of the pupils assigned thereto. The superintendent shall examine such plan and may, in his discretion, obtain the advice of the State Board of Education with reference thereto. The superintendent shall make such changes in the proposed bus routes as he shall deem proper for the said purposes and, thereupon, shall approve the route. When so approved the buses shall be operated upon the route so established and not otherwise, except as provided in G.S. 115C-239 to 115C-246, 115C-248, 115C-249, 115C-250(d), 115C-251 to 115C-254 and 115C-256 to 115C-261. From time to time the principal may suggest changes in any such bus route as he shall deem proper for the said purposes, and the same shall be effective when approved by the superintendent of the local school administrative unit.

(b) Unless road or other conditions shall make it inadvisable to do so, public school buses shall be so routed on state-maintained highways that the school bus, to which such pupil is assigned, shall pass within one mile of the residence of each pupil, who lives one and one half miles or more from the school to which such pupil is assigned.

(c) All bus routes when established pursuant to this section shall be filed in the office of the board of education of the local school administrative unit, and all changes made therein shall be filed in the office of such board within 10 days after such change shall become effective.

(d) If any school bus route established or changed as hereinabove provided is unsatisfactory to the district school committee, the committee may request the board of education of the local school administrative unit to make such change in such route as the committee desires. In the event, the board of education shall hear the request of the district school committee and shall make such change, if any, in such route as to the board shall seem advisable so as to assure the most efficient use of such bus and the safety and convenience of the pupils assigned thereto.

(e) No provision of G.S. 115C-239 to 115C-246, 115C-248, 115C-249, 115C-250(d), 115C-251 to 115C-254 and 115C-256 to 115C-261 shall be construed to place upon the State, or upon any county or city, any duty to supply any funds for the transportation of pupils, or any duty to supply funds for the transportation of pupils who live within the corporate limits of the city or town in which is located the public school in which such pupil is enrolled or to which such pupil is assigned, even though transportation to or from such school is furnished to pupils who live outside the limits of such city or town.

“§ 115C-247. Purchase of activity buses by local boards.—The several local boards of education in the State are hereby authorized and empowered to take title to school buses purchased with local or community funds for the purpose of transporting pupils to and from athletic events and for other local school activity purposes, and commonly referred to as activity buses. The provisions of G.S. 115C-42 shall be fully applicable to the ownership and operation of such activity school buses. Activity buses may also be used as provided in G.S. 115C-243.

“§ 115C-248. Inspection of school buses and activity buses; report of defects by drivers; discontinuing use until defects remedied.—(a) The superintendent of each local school administrative unit, shall cause each school bus owned or
operated by such local school administrative unit to be inspected at least once each 30 days during the school year for mechanical defects, or other defects which may affect the safe operation of such bus. A report of such inspection, together with the recommendations of the person making the inspection, shall be filed promptly in the office of the superintendent of such local school administrative unit, and a copy thereof shall be forwarded to the principal of the school to which such bus is assigned.

(b) It shall be the duty of the driver of each school bus to report promptly to the principal of the school, to which such bus is assigned, any mechanical defect or other defect which may affect the safe operation of the bus when such defect comes to the attention of the driver, and the principal shall thereupon report such defect to the superintendent of the local school administrative unit. It shall be the duty of the superintendent of the local school administrative unit to cause any and all such defects to be corrected promptly.

(c) If any school bus is found by the principal of the school, to which it is assigned, or by the superintendent of the local school administrative unit, to be so defective that the bus may not be operated with reasonable safety, it shall be the duty of such principal or superintendent to cause the use of such bus to be discontinued until such defect is remedied, in which event the principal of the school, to which such bus is assigned, may permit the use of a different bus assigned to such school in the transportation of the pupils and employees assigned to the bus found to be defective.

(d) The superintendent of each local school administrative unit, shall cause each activity bus which is used for the transportation of students by such local school administrative unit or any public school system therein to be inspected for mechanical defects, or other defects which may affect the safe operation of such activity bus, at the same time and in the same way and manner as the regular public school buses for the normal transportation of public school pupils are inspected. A report of such inspection, together with the recommendations of the person making the inspection, shall be filed with the principal of the school which uses and operates such activity bus and a copy shall be forwarded to the superintendent of the local school administrative unit involved. It shall be the duty of the driver of each activity bus to make the same reports to the principal of the school using and operating such activity bus as is required by this section. If any public school activity bus is found to be so defective that the activity bus may not be operated with reasonable safety, it shall be the duty of such principal to cause the use of such activity bus to be discontinued until such defect is remedied to the satisfaction of the person making the inspection and a report to this effect has been filed in the manner herein prescribed. Nothing in this subsection shall authorize the use of State funds for the purchase, operation or repair of any activity bus.

"§ 115C-249. Purchase and maintenance of school buses, materials and supplies.—(a) To the extent that the funds shall be made available to it for such purpose, a local board of education is authorized to purchase from time to time such additional school buses and service vehicles or replacements for school buses and service vehicles, as may be deemed by such board to be necessary for the safe and efficient transportation of pupils enrolled in the schools within such local school administrative unit. Any school bus so purchased shall be constructed and equipped as prescribed by the provisions of G.S. 115C-239 to 115C-246, 115C-248, 115C-249, 115C-250(d), 115C-251 to 115C-254 and
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115C-256 to 115C-261 and by the regulations of the State Board of Education issued pursuant thereto.

(b) The tax-levying authorities of any county are hereby authorized to make provision from time to time in the capital outlay budget of the county for the purchase of such school buses or service vehicles.

(c) Any funds appropriated from time to time by the General Assembly for the purchase of school buses or service vehicles shall be allocated by the State Board of Education to the respective local boards of education in accordance with the requirements of such boards as determined by the State Board of Education, and thereupon shall be paid over to the respective local boards of education in accordance with such allocation.

(d) The title to any additional or replacement school bus or service vehicle purchased pursuant to the provisions of this section, shall be taken in the name of the board of education of such local school administrative unit, and such bus shall in all respects be maintained and operated pursuant to the provisions of G.S. 115C-239 to 115C-246, 115C-248, 115C-249, 115C-250(d), 115C-251 to 115C-254 and 115C-256 to 115C-261 in the same manner as any other public school bus.

(e) It shall be the duty of the county board of education to provide adequate buildings and equipment for the storage and maintenance of all school buses and service vehicles owned or operated by the board of education of any local school administrative unit in such county. It shall be the duty of the tax-levying authorities of such county to provide in its capital outlay budget for the construction or acquisition of such buildings and equipment as may be required for this purpose.

(f) In the event of the damage or destruction of any school bus or service vehicle by fire, collision, or otherwise, the board of education of the local school administrative unit which shall own or operate such bus or service vehicle may apply to the State Board of Education for funds with which to replace it. If the State Board of Education finds that such bus or service vehicle has been destroyed or damaged to the extent that it cannot be made suitable for further use, and if the State Board of Education finds that the replacement of such bus or service vehicle is necessary in order to enable such local school administrative unit to operate properly its school bus transportation system, the State Board of Education shall allot to the board of education of such local school administrative unit from the funds now held by the State Board of Education for the replacement of school buses or service vehicles, or from funds hereafter appropriated by the General Assembly for that purpose, a sum sufficient to purchase a new school bus or service vehicle to be used as a replacement for such damaged or destroyed bus or service vehicle and upon such allocation such sum shall be paid over to or for the account of the board of education of such local school administrative unit for such purpose.

(g) All school buses or service vehicles purchased by or for the account of any local board of education, except school buses or service vehicles purchased by such board from another local board of education of this State, shall be purchased through the Department of Administration.

(h) Appropriations made in the biennial Budget Appropriation Act for the purchase of public school buses shall be permanent appropriations, and unexpended portions of those appropriations shall not revert to the General Fund at the end of the biennium for which appropriated. Any unexpended
portion of those appropriations shall at the end of each fiscal year be transferred to a reserve account and shall be held, together with any other funds appropriated for the purpose, for the purchase of public school buses.

"§ 115C-250. Authority to expend funds for transportation of children with special needs.—(a) The State Board of Education is authorized to expend public funds to defray the reasonable cost of motor vehicle transportation for autistic and communications-handicapped children and deaf and blind children to the nearest proper public educational institution located within the State.

(b) The State Board of Education is authorized to expend public funds or to otherwise provide motor vehicle transportation for children with special needs as those children are defined by G.S. 115C-109. Such transportation may be provided for nonresidential students to and from the nearest public educational institution or sheltered workshop located within the State when said students are full-time equivalent students in the public schools. Such transportation also may be provided for nonresidential students to and from the nearest appropriate private school having a special education program approved by the State Board of Education if the children to be transported are, or have been placed in that program by the State or by a local school administrative unit as a result of the State or the unit's duty to provide such children with a free appropriate public education.

(c) The General Assembly intends that the Department of Human Resources shall provide for the transportation of autistic and communications-handicapped and deaf and blind children and shall have the operational and fiscal responsibilities for such transportation.

(d) Funds appropriated for the transportation of children with special needs may be used to pay transportation safety assistants employed in accordance with the provisions of G.S. 115C-245(e) for buses to which children with special needs are assigned.

"§ 115C-251. Transportation supervisors.—The State Board of Education shall from time to time adopt such rules and regulations with regard to the qualifications of persons employed by local boards of education as chief mechanic or supervisor of transportation as it shall deem necessary or desirable for the purpose of assuring the proper maintenance and safety of school buses. A local board of education shall not employ any person as chief mechanic or supervisor of transportation if that person does not meet the qualifications established by the State Board.

"§ 115C-252. Aid in lieu of transportation.—(a) When, by reason of road conditions or otherwise, any local board of education, which shall elect to operate a school bus transportation system, shall find it impracticable to furnish to a pupil transportation by school bus to the school in which such pupil is enrolled, or to which such pupil is assigned, the board may assign such pupil to such other school within such local school administrative unit as the board shall deem advisable, unless the parent or guardian of such pupil or the person standing in loco parentis to such pupil, shall notify the principal of the school, in which such pupil is enrolled or to which such pupil is assigned, of the desire of such pupil to continue to attend such school without the benefit of transportation by school bus.

(b) In the event that any local board of education, which shall operate a system of school bus transportation, shall find it impracticable to furnish to a pupil such transportation to the school in which such pupil is enrolled or to
which such pupil is assigned, and if, as a result thereof, such pupil shall be required to obtain board and lodging at a place other than the residence of such pupil in order to attend a school, such board may, in its discretion, provide for the payment to the parent or guardian of such pupil of a sum not to exceed fifty dollars ($50.00) per month for each school month that such pupil shall so obtain board and lodging at a place other than the residence of the pupil for the purpose of attending a school.

"§ 115C-253. Contracts for transportation.—Any local board of education may, in lieu of the operation by it of public school buses, enter into a contract with any person, firm or corporation for the transportation by such person, firm or corporation of pupils enrolled in the public schools of such local school administrative unit for the same purposes for which such local school administrative unit is authorized by G.S. 115C-239 to 115C-246, 115C-248, 115C-249, 115C-250(d), 115C-251 to 115C-254 and 115C-256 to 115C-261 to operate public school buses. Any vehicle used by such person, firm or corporation for the transportation of such pupils shall be constructed and equipped as provided in rules and regulations promulgated by the State Board of Education, and the driver of such vehicle shall possess all of the qualifications prescribed by rules and regulations promulgated by the State Board of Education: Provided, that where a contract for transportation of pupils is entered into between a local board of education and any person, firm or corporation which contemplates the use of an automobile or vehicle other than a bus for the transportation of 16 pupils or less, the automobile or vehicle shall not be required to be constructed and equipped as provided for in G.S. 115C-240(d), but shall be constructed and equipped pursuant to rules and regulations promulgated by the State Board of Education. In the event that any local board of education shall enter into such a contract, the board may use for such purposes any funds which it might use for the operation of school buses owned by the board, and the tax-levying authorities of the county or of the city may provide in the county or city budget such additional funds as may be necessary to carry out such contracts.

"§ 115C-254. Use of school buses by State guard or national guard.—When requested to do so by the Governor, the board of education of any local school administrative unit is authorized and directed to furnish a sufficient number of school buses to the North Carolina State guard or the national guard for the purpose of transporting members of the State guard or members of the national guard to and from authorized places of encampment, or to and from places to which members of the State guard or members of the national guard are ordered to proceed for the purpose of suppressing riots or insurrections, repelling invasions or dealing with any other emergency. Public school buses so furnished by any local school administrative unit to the North Carolina State guard or the national guard shall be operated by members or employees of the State or national guard, and all expense of such operation, including any repair or replacement of any bus occasioned by such operation, shall be paid by the State from the appropriations available for the use of the State guard or the national guard.

"§ 115C-255. Liability insurance and waiver of immunity as to certain acts of bus drivers.—The securing of liability insurance and the waiver of immunity as to certain torts of school bus drivers, school transportation service vehicle drivers and school activity bus drivers, is subject to the provisions of G.S.
§ 115C-256. School bus drivers under Workers' Compensation Act.—Awards to school bus drivers under the Workers' Compensation Act shall be made pursuant to the provisions of G.S. 115C-337(b).

§ 115C-257. State Board of Education authorized to pay claims.—The State Board of Education is hereby authorized and directed to set up in its budget for the operation of the public schools of the State a sum of money which it deems sufficient to pay the claims hereinafter authorized and provided for. The Board is hereby authorized and directed to pay out of said sum provided for this purpose to the parent, guardian, executor or administrator of any pupil who may be injured or whose death results from injuries received while such pupil is boarding, riding on, or alighting from a school bus owned and operated by any local school administrative unit, and transporting pupils to or from the public schools of the State, or sustained as a result of the operation of a school bus on the grounds of the school in which such pupil is enrolled, medical, hospital, surgical, and funeral expenses incurred on account of such injuries or death of such pupil in an amount not to exceed six hundred dollars ($600.00). This section shall not apply to injuries sustained as a result of the operation of any activity bus as distinguished from a regular school bus.

§ 115C-258. Approval of claims by State Board of Education final.—The State Board of Education is hereby authorized and empowered, under such rules and regulations as it may promulgate, to approve any claim authorized herein, and when such claim is so approved, such action shall be final: Provided, that the total benefits for hospitalization, medical treatment, and funeral expenses shall in no case exceed six hundred dollars ($600.00) for any pupil so injured.

§ 115C-259. Claims paid without regard to negligence of driver; amounts paid out declared lien upon civil recoveries for child.—The claims authorized herein shall be paid by the said State Board of Education, regardless of whether the injury received by said pupil shall have been due to the negligence of the driver of the said school bus: Provided, that whenever there is recovery on account of said accident by the father, mother, guardian, or administrator of such pupil against any person, firm or corporation, the amount expended by the State Board of Education hereunder shall constitute a paramount lien on any judgment recovered by said parent, guardian, or administrator, and shall be discharged before any money is paid to said parent, guardian, or administrator, on account of said judgment.

§ 115C-260. Disease and injuries incurred while not riding on bus not compensable.—Nothing in G.S. 115C-257 to G.S. 115C-261 shall be construed to mean the State shall be liable for sickness, or disease, or for personal injuries sustained otherwise than by reason of the operation of such bus.

§ 115C-261. Claims must be filed within one year.—The right to compensation as authorized herein shall be forever barred unless a claim be filed with the State Board of Education within one year after the accident, and if death results from the accident, unless a claim be filed with the said Board within one year thereafter.

§ 115C-262. Liability insurance and tort liability.—Liability insurance and tort liability of local boards of education for actions arising out of activities conducted pursuant to this Part, are subject to the provisions of G.S. 115C-42.
“Part 2. Food Service.

“§ 115C-263. Required provision of services.—As a part of the function of the public school system, local boards of education shall provide to the extent practicable school food services in the schools under their jurisdiction. All school food services made available under this authority shall be provided in accordance with standards and regulations recommended by the Superintendent of Public Instruction and approved by the State Board of Education.

“§ 115C-264. Operation.—In the operation of their public school food programs, the public schools shall participate in the National School Lunch Program established by the federal government. The program shall be under the jurisdiction of the Division of School Food Services of the Department of Public Instruction and in accordance with federal guidelines as established by the Child Nutrition Division of the United States Department of Agriculture.

All school food services shall be operated on a nonprofit basis, and any earnings therefrom over and above the cost of operation as defined herein shall be used to reduce the cost of food, to serve better food, or to provide free or reduced-price lunches to indigent children and for no other purpose. The term ‘cost of operation’ shall be defined as actual cost incurred in the purchase and preparation of food, the salaries of all personnel directly engaged in providing food services, and the cost of nonfood supplies as outlined under standards adopted by the State Board of Education. ‘Personnel’ shall be defined as food service supervisors or directors, bookkeepers directly engaged in food service record keeping and those persons directly involved in preparing and serving food: Provided, that food service personnel shall be paid from the funds of food services only for services rendered in behalf of lunchroom services. Any cost incurred in the provisions and maintenance of school food services over and beyond the cost of operation shall be included in the budget request filed annually by local boards of education with boards of county commissioners. It shall not be mandatory that the provisions of G.S. 115C-522(a) and G.S. 143-129 be complied with in the purchase of supplies and food for such school food services.


“§ 115C-265. Rules and regulations for distribution of library/media personnel funds; employment of personnel.—(a) The State Board of Education is authorized to promulgate rules and regulations for the distribution of library/media personnel funds, on the basis of average daily membership (ADM), to each local school administrative unit of the State.

(b) Each local school administrative unit in the State shall employ library/media personnel in accordance with State library/media guidelines approved by the State Board of Education insofar as funds are approved for that purpose by the North Carolina General Assembly.

“§§ 115C-266 to 115C-270: Reserved for future codification purposes.

“SUBCHAPTER V.

“Personnel.

“ARTICLE 18.

“Superintendents.

“§ 115C-271. Selection by local board of education, term of office.—At a meeting to be held biennially or quadrennially during the month of April, the various county boards of education shall meet and elect a county
superintendent of schools subject to the approval of the Superintendent of Public Instruction and the State Board of Education. Such superintendent shall take office on the following July 1 and shall serve for a term of two or four years, or until his successor is elected and qualified. The superintendent shall be elected for a term of either two or four years, which term shall be in the discretion of the county board of education. The county board of education may, with the written consent of the current superintendent, extend or renew the term of the superintendent’s contract at any time during the final year of his term. Provided, however, in any year when new members are to be elected or appointed, the board may not act until after the new members have been sworn in. The term and conditions of employment shall be stated in a written contract which shall be entered into between the board of education and the superintendent. A copy of the contract shall be filed with the Superintendent of Public Instruction before any person is eligible for this office. A certification to the county board of education by the Superintendent of Public Instruction showing that the person proposed for the office of county superintendent of schools holds a superintendent certificate and has had three years experience in school work in the past 10 years, together with a doctor’s certificate showing the person to be free from any contagious or communicable disease, shall make any person eligible for this office.

If any board of education shall elect a person to serve as superintendent of schools in any local school administrative unit who is not qualified, or cannot qualify, according to this section, such election is null and void and it shall be the duty of such board of education to elect a person who can qualify.

In all city administrative units, the superintendent of schools shall be elected by the city board of education of such unit, to serve for a period of either two or four years, which term of office shall be within the discretion of the board; and the qualifications, provisions and approval shall be the same as for county superintendents. The city board of education may, with the written consent of the current superintendent, extend or renew the term of the superintendent’s contract at any time during the final year of his term: Provided, however, in any year when new members are to be elected or appointed, the board may not act until after the new members have been sworn in. The election shall be held biennially or quadrennially, as the case may be, during the month of April.

“§115C-272. Residence oath of office, and salary of superintendent.—(a) Every superintendent shall reside in the county in which he is employed. The superintendent shall not teach, nor be regularly employed in any other capacity that may limit or interfere with his duties as superintendent. Each superintendent, before entering upon the duties of his office, shall take an oath for the faithful performance thereof. The salary of the superintendent shall be in accordance with a State standard salary schedule, fixed and determined by the State Board of Education as provided by law; and such salary schedule for superintendents shall be determined on the same basis for both county and city superintendents and shall take into consideration the amount of work inherent to the office of both county and city superintendents; and such schedule shall be published in the same way and manner as the schedules for teacher and principal salaries are now published.

(b) Superintendents shall be paid promptly when their salaries are due provided the legal requirements for their employment and service have been met. All superintendents employed by any local school administrative unit or
school district who are paid from local funds shall be paid promptly as provided by law and as State allotted superintendents are paid.

Superintendents paid from State funds shall be paid as follows:

1. The salaries of superintendents shall be paid monthly on the basis of each calendar month of service. Included within their term of employment shall be 1.25 days of annual vacation leave for each month of the 12 months’ service. Included within the 12 months’ employment each local board of education shall designate the same or an equivalent number of legal holidays as those designated by the State Personnel Commission for State employees.

2. Notwithstanding any provisions of this section to the contrary no person shall be entitled to pay for any vacation day not earned by that person. Vacation days shall not be used for extending the term of employment of individuals and shall not be cumulative from one fiscal year to another fiscal year: Provided, that superintendents may accumulate annual vacation leave days as follows: annual leave may be accumulated without any applicable maximum until December 31 of each year. On December 31 of each year, any superintendent with more than 30 days of accumulated leave shall have the excess accumulation cancelled so that only 30 days are carried forward to January 1 of the next year. All vacation leave taken by the superintendent will be upon the authorization of his immediate supervisor and under policies established by the local board of education. It is the intent of the General Assembly that leave accumulated as provided herein shall not be used to extend the term of employment of any individual and that any leave not used prior to termination of employment for any reason shall be automatically cancelled.

3. Each local board of education shall sustain any loss by reason of an overpayment to any superintendent paid from State funds.

4. All of the foregoing provisions of this section shall be subject to the requirement that at least fifty dollars ($50.00), or other minimum amount required by federal social security laws, of the compensation of each school employee covered by the Teachers' and State Employees' Retirement System or otherwise eligible for social security coverage shall be paid in each of the four quarters of the calendar year.

(c) The State Board of Education, in fixing the State standard salary schedule of superintendents as authorized by law, shall provide that superintendents who entered the armed or auxiliary forces of the United States after September 16, 1940, and who left their positions for such service, shall be allowed experience increments for the period of such service as though the same had not been interrupted thereby, in the event such persons return to the position of teachers, principals or superintendents in the public schools of the State after having been honorably discharged from the armed or auxiliary forces of the United States.

“§ 115C-273, Salary schedule for superintendents.—Every local board of education may adopt, as to assistant or associate superintendents not paid out of State funds, a salary schedule similar to the State salary schedule, but it likewise shall recognize a difference in salaries based on different duties, training, experience, professional fitness, and continued service in the same
school system; but if any local board of education shall fail to adopt such a
schedule, the State salary schedule shall be in force.

"§ 115C-274. Removal for cause.—(a) Local boards of education are
authorized to remove a superintendent who is guilty of immoral or disreputable
conduct or who shall fail or refuse to perform the duties required of him by law.
In case the Superintendent of Public Instruction shall have sufficient evidence
at any time that any superintendent of schools is not capable of discharging, or
is not discharging, the duties of his office as required by law or is guilty of
immoral or disreputable conduct, he shall report this matter to the board of
education employing said superintendent of schools. It shall then be the duty of
said board of education to hear the evidence in such case and, if after careful
investigation it shall find the charges true, it shall declare the office vacant at
once and proceed to elect a successor: Provided, that such superintendent shall
have the right to try his title to office in the courts of the State.

(b) If the superintendent shall fail in the duties enumerated in G.S.
115C-276(g) through (i) or such other duties as may be assigned him, he shall be
subject, after notice, to an investigation by the Superintendent of Public
Instruction or by his board of education for failure to perform his duties. For
persistent failure to perform these duties, his certificate may be revoked by the
Superintendent of Public Instruction, or he may be dismissed by his board of
education.

"§ 115C-275. Vacancies in office of superintendent.—In case of vacancy by
death, resignation, or otherwise, in the office of a superintendent, such vacancy
shall be filled by the local board of education in which such vacancy occurred. If
the vacancy is filled on a temporary basis, subject to the same approvals and to
the same educational qualifications as provided for superintendents, the
individual appointed to fill the vacancy on a temporary basis shall be paid the
salary provided for superintendents. During the time any superintendent is on
an approved leave of absence, without pay, an acting superintendent may be
appointed in the same manner to serve during the interim period, which
appointment shall be subject to the same approvals and to the same educational
qualifications as provided for superintendents. In case such position is not filled
immediately on a permanent or temporary basis, or in case of absence of a
superintendent on account of illness or other approved reason, the board of
education, by resolution duly adopted and recorded in the minutes of such
board, may assign to an employee of such school board, with the approval of the
Superintendent of Public Instruction and the controller of the State Board of
Education, any duty or duties of such superintendent which necessity requires
be performed during such time: Provided, that if the duty of signing warrants
and checks is so assigned, said board shall give proper notice immediately to
State and local disbursing officials.

"§ 115C-276. Duties of superintendent.—(a) In General.—All acts of local
boards of education, not in conflict with State law, shall be binding on the
superintendent, and it shall be his duty to carry out all rules and regulations of
the board.

All the powers, duties and responsibilities imposed by law upon the
superintendents of county administrative units shall, with respect to city
administrative units, be imposed upon, and exercised by, the superintendents of
city administrative units, in the same manner and to the same extent, insofar as
applicable thereto, as such powers and duties are exercised and performed by
superintendents of county administrative units with reference to said county administrative units.

(b) To Serve as Secretary to Board.—Superintendents shall be ex officio secretary to their respective boards of education. As secretary to the board of education, the superintendent shall record all proceedings of the board, issue all notices and orders that may be made by the board, and otherwise be executive officer of the board of education. He shall see that the minutes of the meetings of the board of education are promptly and accurately recorded in the minute book which shall be kept in the office of the board of education and be open at all times to public inspection.

(c) To Monitor Condition of School Plants.—It shall be the duty of every superintendent to visit the schools of his unit, to keep his board of education informed at all times as to the condition of the school plants in his administrative unit, and to make immediate provisions to remedy any unsafe or unsanitary conditions existing in any school building.

(d) To Attend Professional Meetings.—It shall be the duty of every superintendent to attend professional meetings conducted by the State Superintendent of Public Instruction and such other professional meetings as are necessary to keep him informed on educational matters.

(e) To Report Certain Information to the Superintendent of Public Instruction.—It shall be the duty of every superintendent to furnish as promptly as possible to the State Superintendent when requested by him, information and statistics on any phase of the school work in his administrative unit.

(f) To Administer Oaths When Required.—The superintendent shall have authority to administer oaths to teachers and all other school officials when an oath is required of the same.

(g) To Familiarize Himself with and to Implement State Policies and Rules.—It shall be the duty of the superintendent to keep himself thoroughly informed as to all policies promulgated and rules adopted by the State Superintendent of Public Instruction and the State Board of Education, for the organization and government of the public schools. The superintendent shall notify and inform his board of education, the school committees, supervisors, principals, teachers, janitors, bus drivers, and all other persons connected with the public schools, of such policies and rules. In the performance of these duties, the superintendent shall confer, work, and plan with all school personnel to achieve the best methods of instruction, school organization and school government.

(h) To Hold Necessary Teachers' Meetings.—the superintendent shall hold each year such teachers' meetings and study groups as in his judgment will improve the efficiency of the instruction in the schools of his unit.

(i) To Distribute Certain Supplies and Information.—The superintendent shall distribute to all school personnel all blanks, registers, report cards, record books, bulletins, and all other supplies and information furnished by the State Superintendent and the State Board of Education and give instruction for their proper use.

(j) To Assist the Local Board in Electing School Personnel.—It shall be the duty of the county superintendent to approve, in his discretion, the election of all teachers and personnel by the several school committees of the administrative unit. He shall then present the names of all principals, teachers and other school personnel to the county board of education for approval or
disapproval, and he shall record in the minutes the action of the board in this matter: Provided, that in county administrative units which elect to operate as one school district without a school committee it shall be the duty of the county superintendent to recommend and the board of education to elect all principals, teachers, and other school personnel in the county administrative unit.

It shall be the duty of the city superintendent to record in the minutes the action of the city board of education in the election of all principals, teachers and other school personnel elected upon the recommendation of the superintendent.

(k) To Submit Organization Statement and other Information to the State Board.—Each year the superintendent of each local school administrative unit shall submit to the State Board of Education statements, certified by the chairman of the board of education, showing the organization of the schools in his unit and any additional information the State Board may require.

At the end of the first month of school each year, the superintendent of each local school administrative unit shall report school organization, employees' duties and teaching loads to the State Board as provided in G.S. 115C-47(j).

(l) To Maintain Personnel Files and to Participate in Firing and Demoting of Staff.—The superintendent shall maintain in his office a personnel file for each teacher that contains any complaint, commendation, or suggestion for correction or improvement about the teacher and shall participate in the firing and demoting of staff as provided in G.S. 115C-325.

(m) To Furnish Boundaries of Special Taxing Districts.—It shall be the duty of county superintendents, and of city superintendents where their administrative units are not coterminal with city or township limits, to furnish tax listers at tax listing time the boundaries of each taxing district and city administrative unit in which a special tax will be levied to the end that all property in such district or unit may be properly listed.

(n) To Issue Salary Vouchers.—The authority for a superintendent to issue vouchers for the salary of all school employees, whether paid from State or local funds, shall be a monthly payroll, prepared on forms furnished by the State Board of Education and containing all information required by the controller of the State Board of Education. This monthly payroll shall be signed by the principal of the school. If any voucher so drawn is chargeable against district funds, the amount so charged and the district to which said amount is charged shall be specified on the voucher. The superintendent shall not approve the vouchers for the pay of principals or teachers until the monthly and annual reports required by the local board of education are made.

(o) To Participate in the School Budget and Finances.—The superintendent shall participate in the school budget and finances, as provided in Article 31 of this Chapter.

(p) To Require Teachers and Principals to Make Reports.—The superintendents may require teachers to make reports to the principals and principals to make reports to the superintendent. Any superintendent who knowingly and willfully makes or procures another to make any false report or records, requisitions, or payrolls, respecting daily attendance of pupils in the public schools, payroll data sheets, or other reports required to be made to any board or officer in the performance of his duties, shall be guilty of a misdemeanor and upon conviction shall be fined or imprisoned in the discretion
of the court and the certificate of such person to teach in the public schools of North Carolina shall be revoked by the Superintendent of Public Instruction.

"§ 115C-277. Office, equipment, and clerical assistance to be provided by board.—It shall be the duty of the various boards of education to provide the superintendent of schools with an appropriate office. Likewise, it shall be the duty of the various boards of education to furnish adequately the superintendent’s office and provide all necessary office supplies. Authority is hereby given to boards of education to employ sufficient clerical assistants and purchase sufficient office machines and equipment to the end that the business of the superintendent of schools shall always be conducted in a prompt and efficient manner.

"§ 115C-278. Assistant superintendent and associate superintendent.—Local boards of education shall have authority to employ an assistant superintendent, in addition to those that may be furnished by the State when, in the discretion of the board of education, the schools of the administrative unit can thereby be more efficiently and more economically operated and when funds for the same are provided in the current expense fund budget. The duties of such assistant superintendent shall be assigned by the superintendent with the approval of the board of education.

Local boards of education may, upon the recommendation of the superintendent, elect assistant or associate superintendents for a term of from one to four years. The term may not, however, exceed the expiration date of the superintendent’s contract, unless the remaining time of the superintendent’s contract is less than one year. If there is less than one year remaining on the superintendent’s contract, the assistant or associate superintendent shall be given a contract through the next school year.

The term of employment shall be stated in a written contract which shall be entered into between the board of education and the assistant or associate superintendent, a copy of which shall be filed with the Superintendent of Public Instruction as a matter of information. The assistant or associate superintendent may not be dismissed during the term to which he is elected except for misconduct of such a nature as to indicate he is unfit to continue in his position, incompetence, neglect of duty, or failure or refusal to carry out validly assigned duties.

"§ 115C-279 to 115C-283: Reserved for future codification purposes.

"ARTICLE 19.

"Principals and Supervisors.

"§ 115C-284. Method of selection and requirements.—(a) Principals and supervisors shall be elected by the local boards of education upon the recommendation of the superintendent, in accordance with the provisions of G.S. 115C-276(j).

(b) In the city administrative units, principals shall be elected by the board of education of such administrative unit upon the recommendation of the superintendent of city schools.

(c) The State Board of Education shall have entire control of certifying all applicants for supervisory and professional positions in all public elementary and high schools of North Carolina; and it shall prescribe the rules and regulations for the renewal and extension of all certificates, and shall determine and fix the salary for each grade and type of certificate which it authorizes. Provided, that the State Board of Education shall require each applicant for an
initial certificate or graduate certificate to demonstrate his academic and professional preparation by achieving a prescribed minimum score at least equivalent to that required by the Board on November 30, 1972, on a standard examination appropriate and adequate for that purpose: Provided, further, that in the event the Board shall specify the National Teachers Examination for this purpose, the required minimum score shall not be lower than that which the Board required on November 30, 1972.

(d) No certificate issued by the board shall be valid until approved and signed by the superintendent of the local school administrative unit in which the holder of said certificate resides, or contracts to teach, and the certificate when so approved shall be of statewide validity. Should any superintendent refuse to approve and sign any such certificate, he shall notify the State Board of Education and state in writing the reasons for such refusal. The said Board shall have the right, upon appeal by the holder of said certificate, to review and investigate and finally determine the matter.

(e) It shall be unlawful for any board of education or school committee to employ or keep in service any principal or supervisor who neither holds nor is qualified to hold a certificate in compliance with the provision of the law or in accordance with the regulations of the State Board of Education.

(f) The allotment of classified principals shall be one principal for each duly constituted school with seven or more State-allotted teachers and shall be included in the calculation of the allotment of general teachers set out in G.S. 115C-301(b)(i).

(g) Local boards of education shall have authority to employ supervisors in addition to those that may be furnished by the State when, in the discretion of the board of education, the schools of the local school administrative unit can thereby be more efficiently and more economically operated and when funds for the same are provided in the current expense fund budget. The duties of such supervisors shall be assigned by the superintendent with the approval of the board of education.

(h) All principals and supervisors employed in the public schools of the State or in schools receiving public funds, shall be required either to hold or be qualified to hold a certificate in compliance with the provision of the law or in accordance with the regulations of the State Board of Education: Provided, that nothing herein shall prevent the employment of temporary personnel under such rules as the State Board of Education may prescribe.

“§ 115C-285. Salary.—(a) Principals and supervisors shall be paid promptly when their salaries are due provided the legal requirements for their employment and service have been met. All principals and supervisors employed by any local school administrative unit or school district who are to be paid from local funds shall be paid promptly as provided by law and as State-allotted principals and supervisors are paid.

Principals and supervisors paid from State funds shall be paid as follows:

(1) Classified principals and State-allotted supervisors shall be employed for a term of 12 calendar months and shall be paid monthly at the end of each calendar month of service for the term of their employment. They shall earn annual leave at the rate of 1.25 days per month employed. They shall be provided by the board the same or an equivalent number of legal holidays as those designated by the State Personnel Commission for State employees.
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(2) Supervisors and classified principals paid on an hourly or other basis whether paid from State or from local funds may accumulate annual vacation leave days as follows: annual leave may be accumulated without any applicable maximum until December 31 of each year. On December 31 of each year, any supervisor or principals with more than 30 days of accumulated leave shall have the excess accumulation cancelled so that only 30 days are carried forward to January 1 of the next year. All vacation leave taken by the employee will be upon the authorization of his immediate supervisor and under policies established by the local board of education. It is the intent of the General Assembly that leave accumulated as provided herein shall not be used to extend the term of employment of any individual and that any leave not used prior to termination of employment for any reason shall be automatically cancelled.

(3) Notwithstanding any provisions of this section to the contrary no person shall be entitled to pay for any vacation day not earned by that person. Vacation days shall not be used for extending the term of employment of individuals and shall not be cumulative from one fiscal year to another fiscal year, except as provided in subdivision (5) of this section.

(4) Each local board of education shall sustain any loss by reason of an overpayment to any principal or supervisor paid from State funds.

(5) All of the foregoing provisions of this section shall be subject to the requirement that at least fifty dollars ($50.00), or other minimum amount required by federal social security laws, of the compensation of each school employee covered by the Teachers’ and State Employees’ Retirement System or otherwise eligible for social security coverage shall be paid in each of the four quarters of the calendar year.

(6) The State Board of Education, in fixing the State standard salary schedule of principals as authorized by law, shall provide that principals who entered the armed or auxiliary forces of the United States after September 16, 1940, and who left their positions for such service, shall be allowed experience increments for the period of such service as though the same had not been interrupted thereby, in the event such persons return to the position of teachers, principals or superintendents in the public schools of the State after having been honorably discharged from the armed or auxiliary forces of the United States.

(7) All persons employed as principals in the schools and institutions listed in subsection (p) of G.S. 115C-325 shall be compensated at the same rate as are teachers in the public schools in accordance with the salary schedule adopted by the State Board of Education.

(b) Every local board of education may adopt, as to principals and supervisors not paid out of State funds, a salary schedule, but it likewise shall recognize a difference in salaries based on different duties, training, experience, professional fitness, and continued service in the same school system; but if any local board of education shall fail to adopt such a schedule, the State salary schedule shall be in force.

(c) The board of education may withhold the salary of any supervisor or principal who delays or refuses to render such reports as are required by law,
but when the reports are delivered in accordance with law, the salary shall be paid forthwith.

"§ 115C-286. Rules for conduct of principals and supervisors. — The conduct of principals and supervisors, the kind of reports they shall make, and their duties in the care of school property are subject to the rules of the local board, as provided in G.S. 115C-47(r).

"§ 115C-287. Tenure as principal or supervisor. — Tenure of a principal or supervisor shall be determined in accordance with the provisions of G.S. 115C-325.

"§ 115C-288. Powers and duties of principal. — (a) To Grade and Classify Pupils. — The principal shall have authority to grade and classify pupils.

(b) To Make Accurate Reports to the Superintendent and to the Local Board. — The principal shall make all reports to the superintendent. Every principal of a public school shall make such reports as are required by the boards of education, and the superintendent shall not approve the vouchers for the pay of principals until the required monthly and annual reports are made: Provided, that the superintendents may require teachers to make reports to the principals and principals to make reports to the superintendent: Provided further, that any principal or supervisor who knowingly and willfully makes or procures another to make any false report or records, requisitions, or payrolls, respecting daily attendance of pupils in the public schools, payroll data sheets, or other reports required to be made to any board or officer in the performance of his duties, shall be guilty of a misdemeanor and upon conviction shall be fined or imprisoned in the discretion of the court and the certificate of such person to teach in the public schools of North Carolina shall be revoked by the Superintendent of Public Instruction.

(c) To Improve Instruction and Community Spirit. — The principal shall give suggestions to teachers for the improvement of instruction.

(d) To Conduct Fire Drills and Inspect for Fire Hazards. — It shall be the duty of the principal to conduct a fire drill during the first week after the opening of school and thereafter at least one fire drill each school month, in each building in his charge, where children are assembled. Fire drills shall include all pupils and school employees, and the use of various ways of egress to simulate evacuation of said buildings under various conditions, and such other regulations as shall be prescribed for fire safety by the Commissioner of Insurance, the Superintendent of Public Instruction and the State Board of Education. A copy of such regulations shall be kept posted on the bulletin board in each building.

It shall be the duty of each principal to inspect each of the buildings in his charge at least twice each month during the regular school session. This inspection shall include cafeterias, gymnasiums, boiler rooms, storage rooms, auditoriums and stage areas as well as all classrooms. This inspection shall be for the purpose of keeping the buildings safe from the accumulation of trash and other fire hazards.

It shall be the duty of the principal to file a written report once each month during the regular school session with his local school committee, and two copies of this report with the superintendent of his local school administrative unit, one copy of which shall be transmitted by the superintendent to the chairman of the local board of education. This report shall state the date the last fire drill was held, the time consumed in evacuating each building, that the
inspection has been made as prescribed by law and such other information as is
deemed necessary for fire safety by the Commissioner of Insurance, the
Superintendent of Public Instruction and the State Board of Education.

It shall be the duty of the principal to minimize fire hazards pursuant to the
provisions of G.S. 115C-525.

(e) To Discipline Students and to Assign Duties to Teachers With Regard to
the Discipline, General Well-being, and Medical Care of Students.—The
principal shall have authority to exercise discipline over the pupils of the
school. The principal shall use reasonable force to discipline students and shall
assign duties to teachers with regard to the general well-being and the medical
care of students pursuant to the provisions of G.S. 115C-307 and 115C-390. The
principal also may suspend or dismiss pupils pursuant to the provisions of G.S.
115C-391.

(f) To Protect School Property.—The principal shall protect school property
as provided in G.S. 115C-523.

“§ 115C-289. Assignment of principal’s duties to assistant or acting
principal.—Any duty or responsibility assigned to a principal by statute, State
Board of Education regulation, or by the superintendent may, with the
approval of the local board of education, be assigned by the principal to an
assistant principal designated by the local board of education or to an acting
principal designated by a principal.

“§§ 115C-290 to 115C-294: Reserved for future codification purposes.

“ARTICLE 20.

“Teachers.

“§ 115C-295. Minimum age and certificate prerequisites.—(a) All teachers
employed in the public schools of the State or in schools receiving public funds,
shall be required either to hold or be qualified to hold a certificate in
compliance with the provision of the law or in accordance with the regulations
of the State Board of Education: Provided, that nothing herein shall prevent
the employment of temporary personnel under such rules as the State Board of
Education may prescribe: Provided further, that no person shall be employed to
teach who is under 18 years of age.

(b) It shall be unlawful for any board of education or school committee to
employ or keep in service any teacher who neither holds nor is qualified to hold
a certificate in compliance with the provision of the law or in accordance with
the regulations of the State Board of Education.

“§ 115C-296. Board sets certification requirements.—The State Board of
Education shall have entire control of certifying all applicants for teaching
positions in all public elementary and high schools of North Carolina; and it
shall prescribe the rules and regulations for the renewal and extension of all
certificates, and shall determine and fix the salary for each grade and type of
certificate which it authorizes: Provided, that the State Board of Education
shall require each applicant for an initial certificate or graduate certificate to
demonstrate his academic and professional preparation by achieving a
prescribed minimum score at least equivalent to that required by the Board on
November 30, 1972, on a standard examination appropriate and adequate for
that purpose: Provided, further, that in the event the Board shall specify the
National Teachers Examination for this purpose, the required minimum score
shall not be lower than that which the Board required on November 30, 1972.
"§ 115C-297. Local board of education approves certificate.—No certificate issued by the board shall be valid until approved and signed by the superintendent of the local school administrative unit in which the holder of said certificate resides, or contracts to teach, and the certificate when so approved shall be of statewide validity. Should any superintendent refuse to approve and sign any such certificate, he shall notify the State Board of Education and state in writing the reasons for such refusal. The said Board shall have the right, upon appeal by the holder of said certificate, to review and investigate and finally determine the matter.

"§ 115C-298. Colleges may assist teachers in certification.—Each and every college or university of the State is hereby authorized to aid public school teachers or prospective teachers in securing, raising, or renewing their certificates, in accordance with the rules and regulations of the State Board of Education.

"§ 115C-299. Hiring of teachers.—(a) In the city administrative units, teachers shall be elected by the board of education of such administrative unit upon the recommendation of the superintendent of city schools.

Teachers shall be elected by the county and city boards of education upon the recommendation of the superintendent, in accordance with the provisions of G.S. 115C-276(j).

(b) No person otherwise qualified shall be denied the right to receive credentials from the State Board of Education, to receive training for the purpose of becoming a teacher, or to engage in practice teaching in any school on the grounds he is totally or partially blind; nor shall any school district refuse to engage a teacher on such grounds, so long as such blind teacher is able to carry out the duties of the position for which he applies in the school district.

"§ 115C-300. In-service training.—Local boards of education are authorized to provide for the professional growth of teachers while in service and to pass rules and regulations requiring teachers to cooperate with their superintendent for the improvement of instruction in the classroom and for promoting community improvement.

"§ 115C-301. Allocation of teachers; class size.—(a) On the basis of the organization statements, submitted as provided in G.S. 115C-276(k) and any other information considered relevant, the State Board of Education shall determine for each local school administrative unit the number of teachers and other instructional personnel to be included in the State budget.

(b) The State Board of Education shall allocate teachers and instructional personnel to the various local school administrative units in the following separate categories: (i) general teachers, including classified principals, (ii) vocational teachers, (iii) special education teachers.

(c) The State Board of Education is authorized to promulgate rules and regulations to make the allotment of instructional personnel and teachers.

(d) Upon receipt of the allotments, local boards of education shall organize schools and assign teachers to achieve the following class size maximums:

1) No more than 26 students per teacher in average daily membership for grades one through three.

2) No more than 33 students per teacher in average daily membership for the upper elementary grades.

3) No more than 35 students per class except as permitted by local boards of education and no more than 150 students per day in average daily
membership for teachers in high schools and junior high schools except as permitted by regional accrediting agencies.

(e) When class-size maximums are achieved, a local board of education may assign other teachers to teaching or nonteaching duties in the various schools.

(f) It shall be the duty of teachers to notify the superintendent of any deviation from allowable class size, as provided in G.S. 115C-47(j).

"§ 115C-302. Salary and vacation.—(a) Teachers shall be paid promptly when their salaries are due provided the legal requirements for their employment and service have been met. All teachers employed by any local school administrative unit or school district who are to be paid from local funds shall be paid promptly as provided by law and as State-allotted teachers are paid.

Teachers paid from State funds shall be paid as follows:

(1) Academic Teachers.—Regular State-allotted teachers shall be employed for a period of 10 calendar months and shall be paid monthly at the end of each calendar month of service: Provided, that any individual teacher may be paid in 12 monthly installments if the teacher so requests on or before the first day of the school year. Such request shall be filed in the local school administrative unit which employs the teacher. The payment of the annual salary in 12 installments instead of 10 shall not increase or decrease said annual salary nor in any other way alter the contract made between the teacher and the said local school administrative unit; nor shall such payment apply to any teacher who is employed for a period of less than 10 months. Included within the 10 calendar months employment shall be 1.25 days of annual vacation leave for each month of the 10 months service which shall be designated by each local board of education at a time when students are not scheduled to be in regular attendance. Included within the 10 calendar months employment each local board of education shall designate the same or an equivalent number of legal holidays occurring within the period of employment for academic teachers as those designated by the State Personnel Commission for State employees. Within policy adopted by the State Board of Education, each local board of education shall develop rules and regulations designating what additional portion of the 10 calendar months not devoted to classroom teaching, holidays, or annual leave, shall apply to service rendered before the opening of the school term, during the school term, and after the school term and to fix and regulate the duties of State-allotted teachers during said period, but in no event shall the total number of workdays exceed 200 days. Local boards of education shall consult with the employed public school personnel in the development of the 10-calendar-months schedule.

(2) Occupational Education Teachers.—State-allotted man-months of service to local boards of education as provided by the State Board of Education shall be used for the employment of teachers of occupational education for a term of employment as determined by the local boards of education and teachers so employed shall be paid on a calendar-month basis at the end of each calendar month of service for the term of their employment: Provided, that any individual teacher employed for a term of 10 calendar months may be paid in 12 monthly installments if the teacher so requests on or before the first day of the school year.
Such request shall be filed in the administrative unit which employs the teacher. The payment of the annual salary in 12 installments instead of 10 shall not increase or decrease said annual salary nor in any other way alter the contract made between the teacher and the said administrative unit. Included within their term of employment shall be the same rate of annual vacation leave and legal holidays provided under the same conditions as set out in subdivision (1) above, but in no event shall the total workdays for a 10-month employee exceed 200 days in a 10-month schedule and the workweek shall constitute five days for all occupational teachers regardless of the employment period.

No deductions shall be made from salaries of teachers of vocational agriculture and home economics whose salaries are paid in part from State and federal vocational funds while in attendance upon community, county and State, meetings called for the specific purpose of promoting the agricultural interests of North Carolina, when such attendance is approved by the superintendent of the administrative unit and the State Director of Vocational Education.

(3) Notwithstanding any provisions of this section to the contrary no person shall be entitled to pay for any vacation day not earned by that person. Vacation days shall not be used for extending the term of employment of individuals and shall not be cumulative from one fiscal year to another fiscal year.

(4) Each local board of education shall sustain any loss by reason of an overpayment to any teacher paid from State funds.

(5) All of the foregoing provisions of this section shall be subject to the requirement that at least fifty dollars ($50.00), or other minimum amount required by federal social security laws, of the compensation of each school employee covered by the Teachers' and State Employees' Retirement System or otherwise eligible for social security coverage shall be paid in each of the four quarters of the calendar year.

(6) The State Board of Education, in fixing the State standard salary schedule of teachers as authorized by law, shall provide that teachers who entered the armed or auxiliary forces of the United States after September 16, 1940, and who left their positions for such service, shall be allowed experience increments for the period of such service as though the same had not been interrupted thereby, in the event such persons return to the position of teachers, principals and superintendents in the public schools of the State after having been honorably discharged from the armed or auxiliary forces of the United States.

(b) All persons employed as teachers in the schools and institutions listed in subsection (p) of G.S. 115C-325 shall be compensated at the same rate as are teachers in the public schools in accordance with the salary schedule adopted by the State Board of Education.

(c) Every local board of education may adopt, as to teachers not paid out of State funds, a salary schedule similar to the State salary schedule, but it likewise shall recognize a difference in salaries based on different duties, training, experience, professional fitness, and continued service in the same school system; but if any local board of education shall fail to adopt such a schedule, the State salary schedule shall be in force. No teacher shall receive a
salary higher than that provided in the salary schedule, unless by action of the board of education a higher salary is allowed for special fitness, special duties, or under extraordinary circumstances.

Whenever a higher salary is allowed, the minutes of the board shall show what salary is allowed and the reason for the same: Provided, that a county board of education, upon the recommendation of the committee of a district, may authorize the committee and the superintendent to supplement the salaries of all teachers of the district from funds derived from taxes within such district, and the minutes of the board shall show what increase is allowed each teacher in each such district: Provided, further, that when one or more local tax districts have been combined to create an administrative district, the county board of education may supplement the salaries of all teachers of each local tax district, from funds derived from taxes collected within such local tax district, and the minutes of the board shall show what increase is allowed each teacher in each such district.

"§ 115C-303. Withholding of salary.—(a) No teacher shall be placed on the payroll of a local school administrative unit unless he holds a certificate as required by law, and unless a copy of the teacher’s contract has been filed with the superintendent. No teacher may be paid more than he is due under the local school salary schedule in force in the local school administrative unit or special taxing district. Substitute and interim teachers shall be paid under rules of the State Board of Education.

(b) The board of education may withhold the salary of any teacher who delays or refuses to render such reports as are required by law, but when the reports are delivered in accordance with law, the salary shall be paid forthwith.

"§ 115C-304. Teacher tenure.—Tenure of teachers shall be determined in accordance with the provisions of G.S. 115C-325.

"§ 115C-305. Appeals to board of education and to superior court.—Appeals to the local board of education or to the superior court shall lie from the decisions of all school personnel, including decisions affecting character or the right to teach, as provided in G.S. 115C-45(e).

"§ 115C-306. Reducing employment term of occupational education teacher.—The following procedures shall be complied with before any local board of education may take any action reducing the term of employment of any occupational education teacher:

(1) At least 60 calendar days prior to the beginning date of any reduction in the term of employment, the board shall give written notice to the occupational education teacher of its intentions and reasons for the proposed action.

(2) Within 15 calendar days of receipt of this written notice, the occupational education teacher may request a hearing before the board. The board shall conduct such hearing within 20 calendar days of receipt of the request with the occupational education teacher being given at least 10 calendar days’ notice of the date of hearing.

(3) At the hearing, the occupational education teacher may be accompanied by a representative of his choice and may present such witnesses and other evidence as he may wish in order to show that a reduction in his term of employment is unjustified or arbitrary.

(4) After the hearing, the board shall make its decision and notify the occupational education teacher in writing.
(5) Any occupational education teacher whose term of employment has been reduced by the board pursuant to this section shall have the right to appeal from the decision of the board to the superior court for the judicial district in which the occupational education teacher is employed. The appeal shall be filed within a period of 30 calendar days after notification of the decision of the board.

The board shall advise the Division of Occupational Education of the Department of Public Instruction of its intention to reduce the term of employment of an occupational education teacher at least 90 calendar days prior to the effective date of reduction in his term of employment.

"§ 115C-307. Duties of teachers.—(a) To Maintain Order and Discipline.—It shall be the duty of all teachers, including student teachers, substitute teachers, voluntary teachers, teacher aides and assistants when given authority over some part of the school program by the principal or supervising teacher, to maintain good order and discipline in their respective schools.

(b) To Provide for General Well-Being of Students.—It shall be the duty of all teachers, including student teachers, substitute teachers, voluntary teachers, teacher aides and assistants when given authority over some part of the school program by the principal or supervising teacher, to encourage temperance, morality, industry, and neatness; to promote the health of all pupils, especially of children in the first three grades, by providing frequent periods of recreation, to supervise the play activities during recess, and to encourage wholesome exercises for all children.

(c) To Provide Some Medical Care to Students.—It is within the scope of duty of teachers, including substitute teachers, teacher aides, student teachers or any other public school employee when given such authority by the board of education or its designee, (a) to administer any drugs or medication prescribed by a doctor upon written request of the parents, (b) to give emergency health care when reasonably apparent circumstances indicate that any delay would seriously worsen the physical condition or endanger the life of the pupil, and (c) to perform any other first aid or life saving techniques in which the employee has been trained in a program approved by the State Board of Education: Provided, that no one shall be required to administer drugs or medication or attend life saving techniques training programs.

At the commencement of each school year, but prior to the beginning of classes, and thereafter as circumstances require, the principal of each school shall determine which persons will participate in the medical care program.

(d) To Teach the Students.—It shall be the duty of all teachers, including student teachers, substitute teachers, voluntary teachers, teacher aides and assistants when given authority over some part of the school program by the principal or supervising teacher, to teach as thoroughly as they are able all branches which they are required to teach; to provide for singing in the school, and so far as possible to give instruction in the public school music.

(e) To Enter Into The Superintendent's Plans for Professional Growth.—It shall be the duty of all teachers, including student teachers, substitute teachers, voluntary teachers, teacher aides and assistants when given authority over some part of the school program by the principal or supervising teacher, to enter actively into the plans of the superintendent for the professional growth of the teachers.

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(f) To Discourage Nonattendance.—Teachers shall cooperate with the principal in ascertaining the cause of nonattendance of pupils that he may report all violators of the compulsory attendance law to the attendance officer in accordance with rules promulgated by the State Board of Education.

(g) To Make Required Reports.—Every teacher of a public school shall make such reports as are required by the boards of education, and the superintendent shall not approve the vouchers for the pay of teachers until the required monthly and annual reports are made: Provided, that the superintendents may require teachers to make reports to the principals. Provided further, that any teacher who knowingly and willfully makes or procures another to make any false report or records, requisitions, or payrolls, respecting daily attendance of pupils in the public schools, payroll data sheets, or other reports required to be made to any board or officer in the performance of their duties, shall be guilty of a misdemeanor and upon conviction shall be fined or imprisoned in the discretion of the court and the certificate of such person to teach in the public schools of North Carolina shall be revoked by the Superintendent of Public Instruction.

(h) To Take Care of School Buildings.—It shall be the duty of every teacher to instruct children in proper care of property and to exercise due care in the protection of school property, in accordance with the provisions of G.S. 115C-523.

§ 115C-308. Rules for teacher's conduct.—The conduct of teachers, the kind of reports they shall make, and their duties in the care of school property are subject to the rules and regulations of the local board, as provided in G.S. 115C-47(r).

§ 115C-309. Student teachers.—(a) Student Teacher and Student Teaching Defined.—A 'student teacher' is any student enrolled in an institution of higher education approved by the State Board of Education for the preparation of teachers who is jointly assigned by that institution and a local board of education to student-teach under the direction and supervision of a regularly employed certified teacher.

'Student teaching' may include those duties granted to a teacher by G.S. 115C-307 and G.S. 115C-390 and any other part of the school program for which either the supervising teacher or the principal is responsible.

(b) Legal Protection.—A student teacher under the supervision of a certified teacher or principal shall have the protection of the laws accorded the certified teacher.

(c) Assignment of Duties.—It shall be the responsibility of a supervising teacher, in cooperation with the principal and the representative of the teacher-preparation institution, to assign to the student teacher responsibilities and duties that will provide adequate preparation for teaching.

§ § 115C-310 to 115C-314: Reserved for future codification purposes.

"ARTICLE 21.

"Other Employees.

§ 115C-315. Hiring of school personnel.—(a) In the city administrative units, janitors and maids shall be appointed by the board of education of such local school administrative unit upon the recommendation of the superintendent.

(b) School personnel shall be elected by the local board of education upon the recommendation of the superintendent, in accordance with the provisions of G.S. 115C-276(j).
(c) Prerequisites for employment. All professional personnel employed in the public schools of the State or in schools receiving public funds, shall be required either to hold or be qualified to hold a certificate in compliance with the provision of the law or in accordance with the regulations of the State Board of Education: Provided, that nothing herein shall prevent the employment of temporary personnel under such rules as the State Board of Education may prescribe.

(d) The State Board of Education shall have entire control of certifying all applicants for professional positions in all public elementary and high schools of North Carolina; and it shall prescribe the rules and regulations for the renewal and extension of all certificates, and shall determine and fix the salary for each grade and type of certificate which it authorizes: Provided, that the State Board of Education shall require each applicant for an initial certificate or graduate certificate to demonstrate his or her academic and professional preparation by achieving a prescribed minimum score at least equivalent to that required by the Board on November 30, 1972, on a standard examination appropriate and adequate for that purpose: Provided, further, that in the event the Board shall specify the National Teachers Examination for this purpose, the required minimum score shall not be lower than that which the Board required on November 30, 1972.

(e) Local approval of certificate required. No certificate issued by the board shall be valid until approved and signed by the superintendent of the administrative unit in which the holder of said certificate resides, or contracts to teach, and the certificate when so approved shall be of statewide validity. Should any superintendent refuse to approve and sign any such certificate, he shall notify the State Board of Education and state in writing the reasons for such refusal. The said Board shall have the right, upon appeal by the holder of said certificate, to review and investigate and finally determine the matter.

(f) Employing persons not holding nor qualified to hold certificate. It shall be unlawful for any board of education or school committee to employ or keep in service any professional person who neither holds nor is qualified to hold a certificate in compliance with the provision of the law or in accordance with the regulations of the State Board of Education.

§ 115C-316. Salary and vacation.-(a) School officials and other employees shall be paid promptly when their salaries are due provided the legal requirements for their employment and service have been met. All school officials and other employees employed by any local school administrative unit or school district who are to be paid from local funds shall be paid promptly as provided by law and as State-allotted school officials and other employees are paid.

Public school employees paid from State funds shall be paid as follows:

(1) Employees Other Than Superintendents, Supervisors and Classified Principals on an Annual Basis.—The salaries of employees other than superintendents, supervisors and classified principals employed on an annual basis shall be paid monthly on the basis of each calendar month of service. Included within their term of employment shall be provided 1.25 days of annual vacation leave time for each calendar month of service. Included within their term of employment each local board of education shall designate the same or an equivalent number of legal
holidays as those designated by the State Personnel Commission for State employees.

(2) School Employees Paid on an Hourly or Other Basis.—School employees paid on an hourly basis or on a basis other than a 10-month or 12-month basis shall be paid at a time as determined by each local board of education and expenditures from State funds shall be within allocations made by the State Board of Education and in accordance with rules and regulations approved by the State Board of Education concerning allocations of State funds: Provided, that any individual school employee employed for a term of 10 calendar months may be paid in 12 monthly installments if the employee so requests on or before the first day of the school year. Such request shall be filed in the administrative unit which employs the employee. The payment of the annual salary in 12 installments instead of 10 shall not increase or decrease said annual salary nor in any other way alter the contract between the employee and the said administrative unit. Included within the term of employment shall be provided for full-time employees 1.25 days of annual vacation leave time for each calendar month of service, to be taken under policies determined by each local board of education. Included within their term of employment, each local board of education shall designate the same or an equivalent number of legal holidays occurring within the period of employment as those designated by the State Personnel Commission for State employees.

(3) Notwithstanding any provisions of this section to the contrary no person shall be entitled to pay for any vacation day not earned by that person. Vacation days shall not be used for extending the term of employment of individuals and shall not be cumulative from one fiscal year to another fiscal year: Provided, that

(4) Twelve-month school employees other than superintendents, supervisors and classified principals paid on an hourly or other basis whether paid from State or from local funds may accumulate annual vacation leave days as follows: annual leave may be accumulated without any applicable maximum until December 31 of each year. On December 31 of each year, any employee with more than 30 days of accumulated leave shall have the excess accumulation cancelled so that only 30 days are carried forward to January 1 of the next year. All vacation leave taken by the employee will be upon the authorization of his immediate supervisor and under policies established by the local board of education. It is the intent of the General Assembly that leave accumulated as provided herein shall not be used to extend the term of employment of any individual and that any leave not used prior to termination of employment for any reason shall be automatically cancelled.

(5) All of the foregoing provisions of this section shall be subject to the requirement that at least fifty dollars ($50.00), or other minimum amount required by federal social security laws, of the compensation of each school employee covered by the Teachers' and State Employees' Retirement System or otherwise eligible for social security coverage shall be paid in each of the four quarters of the calendar year.
(6) Each local board of education shall sustain any loss by reason of an overpayment to any school official or other employee paid from State funds.

(b) Every local board of education may adopt, as to school officials other than superintendents, principals and supervisors not paid out of State funds, a salary schedule similar to the State salary schedule, but it likewise shall recognize a difference in salaries based on different duties, training, experience, professional fitness, and continued service in the same school system; but if any local board of education shall fail to adopt such a schedule, the State salary schedule shall be in force.

"§ 115C-317. Penalty for making false reports or records.—Any school employee of the public schools other than a superintendent, principal, or teacher, who knowingly and willfully makes or procures another to make any false report or records, requisitions, or payrolls, respecting daily attendance of pupils in the public schools, payroll data sheets, or other reports required to be made to any board or officer in the performance of his duties, shall be guilty of a misdemeanor and upon conviction shall be fined or imprisoned in the discretion of the court and the certificate of such person to teach in the public schools of North Carolina shall be revoked by the Superintendent of Public Instruction.

"§ § 115C-318 to 115C-322: Reserved for future codification purposes.

"ARTICLE 22.

"General Regulations.


"§ 115C-323. Employee health certificate.—All public school employees upon initial employment, and those who have been separated from public school employment more than one school year, including superintendents, supervisors, district principals, building principals, teachers, and any other employees in the public schools of the State, shall file in the office of the superintendent, before assuming his duties, a certificate from a physician licensed to practice medicine in the State of North Carolina, certifying that said person does not have tuberculosis in the communicable form, or other communicable disease, or any disease, physical or mental, which would impair the ability of the said person to perform effectively his duties. A local school board or a superintendent may require any person herein named to take a physical examination when deemed necessary.

Any public school employee who has been absent for more than 40 successive school days because of a communicable disease must, before returning to work, file with the superintendent a physician's certificate certifying that the individual is free from any communicable disease.

The examining physician shall make the aforesaid certificates on an examination form supplied by the Superintendent of Public Instruction. The certificate shall be issued only after a physical examination has been made at the time of the certification, and such examination shall be in accordance with rules and regulations adopted by the Superintendent of Public Instruction, with approval of the Secretary of Human Resources, and such rules and regulations may include the requirement of an X-ray chest examination for all new employees of the public school system.

It shall be the duty of the superintendent of the school in which the person is employed to enforce the provisions of this section.
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Any person violating any of the provisions of this section shall be guilty of a misdemeanor and subject to a fine or imprisonment in the discretion of the court.

“Part 2. Payment of Wages after Death of Employee.

§ 115C-324. Disposition of payment due employees at time of death.—In the event of the death of any superintendent, teacher, principal, or other school employee to whom payment is due for or in connection with services rendered by such person or to whom has been issued any uncashed voucher for or in connection with services rendered, when there is no administration upon the estate of such person, such voucher may be cashed by the clerk of the superior court of the county in which such deceased person resided, or a voucher due for such services may be made payable to such clerk, who will treat such sums as a debt owed to the intestate under the provisions of G.S. 28-68.


§ 115C-325. System of employment for public school teachers.—(a) Definition of Terms.—As used in this section unless the context requires otherwise:

(1) ‘Career teacher’ means a teacher who has obtained career status as provided in G.S. 115C-325(c).
(2) ‘Committee’ means the Professional Review Committee created under G.S. 115C-325(g).
(3) ‘Day’ means any day except Saturday, Sunday, or a legal holiday. In computing any period of time, the day in which notice is received is not counted, but the last day of the period so computed is to be counted.
(4) ‘Demote’ means to reduce the compensation of a person who is classified or paid by the State Board of Education as a classroom teacher or to transfer him to a new position carrying a lower salary. The word ‘demote’ does not include a reduction in compensation that results from the elimination of a special duty, such as the duty of an athletic coach, assistant principal, or a choral director.
(5) ‘Probationary teacher’ means a certificated person, other than a superintendent, associate superintendent, or assistant superintendent, who has not obtained career-teacher status and whose major responsibility is to teach or to supervise teaching.
(6) ‘Teacher’ means a person who holds at least a current, not expired, Class A certificate or a regular, not provisional or expired, vocational certificate issued by the Department of Public Instruction; whose major responsibility is to teach or directly supervise teaching or who is classified by the State Board of Education or is paid as a classroom teacher; and who is employed to fill a full-time, permanent position.

(b) The superintendent shall maintain in his office a personnel file for each teacher that contains any complaint, commendation, or suggestion for correction or improvement about the teacher. The complaint, commendation, or suggestion shall be signed by the person who makes it and shall be placed in the teacher’s file only after five days’ notice to the teacher. Any denial or explanation relating to such complaint, commendation, or suggestion that the teacher desires to make shall be placed in the file.

The personnel file shall be open for the teacher’s inspection at all reasonable times but shall be open to other persons only in accordance with such rules and regulations as the board adopts. Any preemployment data or other information

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obtained about a teacher before his employment by the board may be kept in a file separate from his personnel file and need not be made available to him. No data placed in the preemployment file may be introduced as evidence at a hearing on the dismissal or demotion of a teacher.

(c) (1) Election of a Teacher to Career Status.—When a teacher will have been employed by a North Carolina public school system for three consecutive years, the board, near the end of the third year, shall vote upon his employment for the next school year. The board shall give him written notice of that decision at least 30 days before the end of his third year of employment. If a majority of the board votes to reemploy him, he becomes a career teacher on the first day of the fourth year of employment. If the board votes to reemploy the teacher and thus grant career status at the beginning of the next school year, and if it has notified him of this decision, it may not later rescind that action but must proceed under the provisions of this section for the demotion or discharge of a teacher if it decides to terminate his employment. If a majority of the board votes against reemploying the teacher, he shall not teach beyond the current school term. If the board fails to vote on granting career status but reemploys him for the next year, he automatically becomes a career teacher on the first day of the fourth year of employment.

A year, for purposes of computing time as a probationary teacher, shall be not less than 120 workdays performed as a full-time, permanent teacher in a normal school year.

(2) Employment of a Career Teacher.—A teacher who has obtained career status in another North Carolina public school system need not serve another probationary period of more than two years, and may, at the option of the board, be employed immediately as a career teacher. In any event, if the teacher is reemployed for a third consecutive year, he shall automatically become a career teacher. A teacher with career status who resigns and within five years seeks to be reemployed by the same local school administrative unit need not serve another probationary period of more than one year and may, at the option of the board, be reemployed as a career teacher. In any event, if he is reemployed for a second consecutive year, he shall automatically become a career teacher.

(3) Ineligible for Career Status.—No superintendent, associate superintendent, assistant superintendent or other school employee who is not a teacher as defined by G.S. 115C-325(a)(6) is eligible to obtain career status or continue in a career status if he no longer performs the responsibilities of a teacher as defined in G.S. 115C-325(a)(9).

(4) Leave of Absence.—A career teacher who has been granted a leave of absence by a board shall maintain his career status if he returns to his teaching position at the end of the authorized leave.

(d) Career Teachers.

(1) A career teacher shall not be subjected to the requirement of annual appointment nor shall he be dismissed, demoted, or employed on a part-time basis without his consent except as provided in subsection (e).

(2) A career teacher who has performed the duties of a principal or supervisor in a particular position in the school system for three consecutive years shall not be transferred from that position to a lower-
paying administrative position or to a lower-paying nonadministrative position without his consent except for the reasons given in G.S. 115C-325(e) and in accordance with the procedure for the dismissal of a career teacher set out in this section.

(e) Grounds for Dismissal or Demotion of a Career Teacher.
(1) No career teacher shall be dismissed or demoted or employed on a part-time basis except for one or more of the following:
   a. Inadequate performance.
   b. Immorality.
   c. Insubordination.
   d. Neglect of duty.
   e. Physical or mental incapacity.
   f. Habitual or excessive use of alcohol or nonmedical use of a controlled substance as defined in Article 5 of Chapter 90 of the General Statutes.
   g. Conviction of a felony or a crime involving moral turpitude.
   h. Advocating the overthrow of the government of the United States or of the State of North Carolina by force, violence, or other unlawful means.
   i. Failure to fulfill the duties and responsibilities imposed upon teachers by the General Statutes of this State.
   j. Failure to comply with such reasonable requirements as the board may prescribe.
   k. Any cause which constitutes grounds for the revocation of such career teacher’s teaching certificate.
   l. A justifiable decrease in the number of positions due to district reorganization or decreased enrollment, provided that subdivision (2) is complied with.
   m. Failure to maintain his certificate in a current status.
   n. Failure to repay money owed to the State in accordance with the provisions of Article 60, Chapter 143 of the General Statutes.
(2) When a career teacher is dismissed pursuant to G.S. 115C-325(e)(1)), above, his name shall be placed on a list of available teachers to be maintained by the board. Career teachers whose names are placed on such a list shall have a priority on all positions for which they are qualified which become available in that system for the three consecutive years succeeding their dismissal. However, if the local school administrative unit offers the dismissed teacher a position for which he is certified and he refuses it, his name shall be removed from the priority list.
(3) In determining whether the professional performance of a career teacher is adequate, consideration shall be given to regular and special evaluation reports prepared in accordance with the published policy of the employing local school administrative unit and to any published standards of performance which shall have been adopted by the board. Failure to notify a career teacher of an inadequacy in his performance shall be conclusive evidence of satisfactory performance.
(4) Dismissal under subdivision (1) above, except paragraph g. thereof, shall not be based on conduct or actions which occurred more than three
years before the written notice of the superintendent's intention to recommend dismissal is mailed to the teacher.

(f) Suspension without Pay.—If a board believes that cause exists for dismissing a probationary or career teacher for any reason specified in G.S. 115C-325(e)(1)b. through G.S. 115C-325(e)(1)h. and that immediate suspension of the teacher is necessary, the board may by resolution suspend him without pay and without giving notice and a hearing.

If a board thinks a probationary or career teacher’s performance is so inadequate that an emergency situation exists requiring the teacher to be removed immediately from his duties, the board shall give him written notice that it plans to suspend him and the reasons for the planned action. Not less than two or more than five days after the teacher receives the board’s notice, the board shall hold a hearing on whether it should suspend the teacher. The hearing procedures provided in G.S. 115C-325(j) shall be followed and all teacher evaluations and other information in the teacher’s personnel file shall be made available to the board. If the board finds it necessary to suspend the teacher, it may by resolution suspend him without pay.

Within five days after a suspension under this section, the superintendent shall initiate a dismissal as provided in this section. If it is finally determined that no grounds for dismissal exist, the teacher shall be reinstated immediately and shall be paid for the period of suspension.

(g) Professional Review Committee; Qualifications; Terms; Vacancy; Training.

(1) There is hereby created a Professional Review Committee which shall consist of 121 citizens, 11 from each of the State’s congressional districts, five of whom shall be lay persons and six of whom shall have been actively and continuously engaged in teaching or in supervision or administration of schools in this State for the five years preceding their appointment and who are broadly representative of the profession, to be appointed by the Superintendent of Public Instruction with the advice and consent of the State Board of Education. Each member shall be appointed for a term of three years. The Superintendent of Public Instruction, with the advice and consent of the State Board of Education, shall fill any vacancy which may occur in the Committee. The person appointed to fill the vacancy shall serve for the unexpired portion of the term of the member of the Committee whom he is appointed to replace.

(2) The Superintendent of Public Instruction shall provide for the Committee such training as he considers necessary or desirable for the purpose of enabling the members of the Committee to perform the functions required of them.

(3) The compensation of committee members while serving as a member of a hearing panel shall be as for State boards and commissions pursuant to G.S. 138-5. The compensation shall be paid by the State Board of Education.

(h) Procedure for Dismissal or Demotion of Career Teacher.

(1) A career teacher may not be dismissed, demoted, or reduced to part-time employment except upon the superintendent’s recommendation.

(2) Before recommending to a board the dismissal or demotion of the career teacher, the superintendent shall give written notice to the
career teacher by certified mail of his intention to make such recommendation and shall set forth as part of his recommendation the grounds upon which he believes such dismissal is justified. The notice shall include a statement to the effect that if the teacher within 15 days after the date of receipt of the notice requests a review, he shall be entitled to have the proposed recommendations of the superintendent reviewed by a panel of the Committee. A copy of G.S. 115C-325 and a current list of the members of the Professional Review Committee shall also be sent to the career teacher. If the teacher does not request a panel hearing within the 15 days provided, the superintendent may submit his recommendation to the board.

(3) Within the 15-day period after receipt of the notice, the career teacher may file with the superintendent a written request for either (i) a review of the superintendent's proposed recommendation by a panel of the Professional Review Committee or (ii) a hearing before the board within 10 days. If the teacher requests an immediate hearing before the board, he forfeits his right to a hearing by a panel of the Professional Review Committee. If no request is made within that period, the superintendent may file his recommendation with the board. The board, if it sees fit, may by resolution dismiss such teacher. If a request for review is made, the superintendent shall not file his recommendation for dismissal with the board until a report of a panel of the Committee is filed with the superintendent.

(4) If a request for review is made, the superintendent, within five days of filing such request for review, shall notify the Superintendent of Public Instruction who, within seven days from the time of receipt of such notice, shall designate a panel of five members of the Committee, at least two of whom shall be lay persons, who shall not be employed in or be residents of the county in which the request for review is made, to review the proposed recommendations of the superintendent for the purpose of determining whether in its opinion the grounds for the recommendation are true and substantiated. The teacher or principal making the request for review shall have the right to require that at least two members of the panel shall be members of his professional peer group.

(i) Investigation by Panel of Professional Review Committee; Report; Action of Superintendent; Review by Board.

(1) The career teacher and superintendent will each have the right to designate not more than 30 of the 121 members of the Professional Review Committee as not acceptable to the teacher or superintendent respectively. No person so designated shall be appointed to the panel. The career teacher shall specify those Committee members who are not acceptable in his request for a review of the superintendent's proposed recommendations provided for in subdivision (h)(3) above. The superintendent's notice to the Superintendent of Public Instruction provided for in subdivision (h)(4) above shall contain a list of those members of the committee not acceptable to the superintendent and the teacher respectively. Failure to designate nonacceptable members in accordance with this subsection shall constitute a waiver of that right.
(2) As soon as possible after the time of its designation, the panel shall elect a chairman and shall conduct such investigation as it may consider necessary for the purpose of determining whether the grounds for the recommendation are true and substantiated. The panel shall be furnished assistance reasonably required to conduct its investigation and shall be empowered to subpoena and swear witnesses and to require them to give testimony and to produce books and papers relevant to its investigation.

(3) The career teacher and superintendent involved shall each have the right to meet with the panel accompanied by counsel or other person of his choice and to present any evidence and arguments which he considers pertinent to the considerations of the panel and to cross-examine witnesses.

(4) When the panel has completed its investigation, it shall prepare a written report and send it to the superintendent and teacher. The report shall contain an outline of the scope of its investigation and its finding as to whether or not the grounds for the recommendation of the superintendent are true and substantiated. The panel shall complete its investigation and prepare the report within 20 days from the time of its designation, except in cases in which the panel finds that justice requires that a greater time be spent in connection with the investigation and the preparation of such report, and reports that finding to the superintendent and the teacher: Provided, that such extension does not exceed 10 days.

(5) Within five days after the superintendent receives the report of the panel, he shall submit his written recommendation for dismissal to the board with a copy to the teacher, or shall drop the charges against the teacher. His recommendation shall state the grounds for the recommendation and shall be accompanied by a copy of the report of the panel of the Committee.

(6) Within seven days after receiving the superintendent's recommendation and before taking any formal action, the board shall notify the teacher by certified mail that it has received the superintendent's recommendation and the report of the panel. The notice shall state that if the teacher requests a hearing before the board on the superintendent's recommendation, a hearing will be provided at the time and place specified in the notice. The time specified shall not be sooner than seven or later than 20 days after the teacher received the notice. The notice shall further state that if the board does not receive the teacher's written notification that he wants a hearing before the board, such notice to be given within five days after he has received the board's notice, it may by resolution dismiss the teacher. If the teacher can show that his request for a hearing was postmarked within the time provided, his right to a hearing is not forfeited.

(j) Hearing Procedure.—The following provisions shall be applicable to any hearing conducted pursuant to G.S. 115C-325(k) or (l).

(1) The hearing shall be private.

(2) The hearing shall be conducted in accordance with such reasonable rules and regulations as the board may adopt consistent with G.S. 115C-325, or if no rules have been adopted, in accordance with
reasonable rules and regulations adopted by the State Board of Education to govern such hearings.

(3) At the hearing the teacher and the superintendent shall have the right to be present and to be heard, to be represented by counsel and to present through witnesses any competent testimony relevant to the issue of whether grounds for dismissal or demotion exist or whether the procedures set forth in G.S. 115C-325 have been followed.

(k) Panel Finds Grounds for Superintendent's Recommendation True and Substantiated.

(1) If the panel found that the grounds for the recommendation of the superintendent are true and substantiated, at the hearing the board shall consider the recommendation of the superintendent, the report of the panel, including any minority report, and any evidence which the teacher or the superintendent may wish to present with respect to the question of whether the grounds for the recommendation are true and substantiated. The hearing may be conducted in an informal manner.

(2) If, after considering the recommendation of the superintendent, the report of the panel and the evidence adduced at the hearing, the board concludes that the grounds for the recommendation are true and substantiated, the board, if it sees fit, may by resolution order such dismissal.

(l) Panel Does Not Find That the Grounds for Superintendent's Recommendation Are True and Substantiated.

(1) If the panel does not find that the grounds for the recommendation of the superintendent are true and substantiated, at the hearing the board shall determine whether the grounds for the recommendation of the superintendent are true and substantiated upon the basis of competent evidence adduced at the hearing by witnesses who shall testify under oath or affirmation to be administered by any board member or the secretary of the board.

(2) The procedure at the hearing shall be such as to permit and secure a full, fair and orderly hearing and to permit all relevant competent evidence to be received therein. The report of the panel of the committee shall be deemed to be competent evidence. A full record shall be kept of all evidence taken or offered at such hearing. Both counsel for the local school administrative unit and the career teacher or his counsel shall have the right to cross-examine witnesses.

(3) At the request of either the superintendent or the teacher, the board shall issue subpoenas requiring the production of papers or records or the attendance of persons residing within the State before the board. Subpoenas for witnesses to testify at the hearing in support of the recommendation of the superintendent or on behalf of the career teacher shall, as requested, be issued in blank by the board over the signature of its chairman or secretary. The board shall pay witness fees for up to five witnesses subpoenaed on behalf of the teacher, except that it shall not pay for any witness who resides within the county in which the dismissal originates or who is an employee of the board. However, no employee of the board shall suffer any loss of compensation because he has been subpoenaed to testify at the hearing. These payments shall be as provided for witnesses in G.S. 7A-314.
(4) At the conclusion of the hearing provided in this section, the board shall render its decision on the evidence submitted at such hearing and not otherwise.

(5) Within five days following the hearing, the board shall send a written copy of its findings and order to the teacher and superintendent. The board shall provide for making a transcript of its hearing. If the teacher contemplates an appeal to a court of law, he may request and shall receive at no charge a transcript of the proceedings.

(m) Probationary Teacher.

(1) The board of any local school administrative unit may not discharge a probationary teacher during the school year except for the reasons for and by the procedures by which a career teacher may be dismissed as set forth in subsections (e) and (h) to (l) above.

(2) The board, upon recommendation of the superintendent, may refuse to renew the contract of any probationary teacher or to reemploy any teacher who is not under contract for any cause it deems sufficient. Provided, however, that the cause may not be arbitrary, capricious, discriminatory or for personal or political reasons.

(n) Appeal.—Any teacher who has been terminated by action of the board after a hearing pursuant to subsections (k) or (l) shall have the right to appeal from the decision of the board to the superior court for the judicial district in which the teacher is employed. The appeal shall be filed within a period of 30 days after notification of the decision of the board. The cost of preparing the transcript shall be borne by the board.

(o) A teacher, career or probationary, should not resign without the consent of the superintendent unless he has given at least 30 days’ notice. If the teacher does resign without giving at least 30 days’ notice, the board may request that the State Board of Education revoke the teacher’s certificate for the remainder of that school year. A copy of the request shall be placed in the teacher’s personnel file.

A probationary teacher whose contract will not be renewed for the next school year shall be notified of this fact not less than 30 days before the end of his employment period.

(p) Notwithstanding any law or regulation to the contrary and the teacher salary schedule as adopted by the State Board of Education, this section shall apply to all persons defined as teachers by this section who serve as teachers in the following schools and institutions:

Cameron Morrison.
Samuel Leonard.
Richard T. Fountain.
Juvenile Evaluation Center.
C. A. Dillon.
Dobbs School for Girls.
Samarkand Manor.
Stonewall Jackson.

"§ 115C-326. Uniform performance standards and criteria for professional employees.—The State Board of Education, in consultation with local boards of education, shall develop uniform performance standards and criteria to be used in evaluating professional public school employees. It shall develop rules and regulations to insure the use of these standards and criteria in the employee
evaluation process. The performance standards and criteria shall be adopted by the Board by July 1, 1981, and may be modified in the discretion of the Board.

Local boards of education shall adopt rules and regulations by July 1, 1981, to provide for annual evaluation of all professional employees defined as teachers by G.S. 115C-325(a)(6). Local boards may also adopt rules and regulations requiring annual evaluation of other school employees not specifically covered in this section. All such rules and regulations adopted by local boards shall utilize performance standards and criteria adopted by the State Board of Education pursuant to the first paragraph of this section; however, the standards and criteria used by local boards are not to be limited by those adopted by the State Board of Education.

"Part 4. Personnel Administration Commission
for Public School Employees.

"§ 115C-327. Commission established; purpose.—There is hereby established a Personnel Administration Commission for Public School Employees which shall provide advice and recommendations to the Governor and the State Board of Education in regard to personnel administration practices and policies for public school employees.

"§ 115C-328. Commission membership; meetings; compensation.—(a) The Personnel Administration Commission for Public School Employees shall consist of nine members to be appointed by the Governor on or before September 1, 1980. Of the nine members of the Commission, one shall be appointed from each of the eight educational districts of the State as established in G.S. 115C-65, and the chairman, who shall be designated by the Governor, shall be an at-large member. To assure continuity of membership, initial appointments to the Commission shall be made as follows: three members, including the chairman, for terms of three years; three members for terms of two years; and three members for terms of one year. All appointments after the initial appointments shall be for terms of three years. Vacancies on the Commission shall be filled by the Governor for the unexpired term.

(b) In making his appointments to the Commission, the Governor shall assure that the membership of the Commission consists of persons interested in education and persons possessing knowledge and skills in personnel administration. However, no person shall be eligible for appointment to the Commission if he is a member of the General Assembly, officer or employee of any organization or association of public school employees, or a person whose employment would be directly affected by recommendations of the Commission.

(c) Within 30 days after the appointment of the Commission, the chairman shall convene the Commission for an initial meeting. At this meeting, the Commission shall elect such officers, in addition to the chairman, as it deems necessary and establish a regular meeting schedule.

(d) Members of the Commission shall be entitled to receive per diem and reimbursement for travel and subsistence expenses incurred in the performance of their duties as specified in G.S. 138-5 or 138-6, whichever is applicable to the individual member. Funds for this purpose shall be made available to the State Board of Education from funds appropriated to implement Section 36 of Chapter 1137 of the 1980 Session Laws.

"§ 115C-329. Responsibilities of the Commission.—(a) The primary function of the Commission shall be to review the classification of positions and to make

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written recommendations to the Governor and the State Board of Education concerning proper compensation, salary and benefits, and such other proper personnel matters as to encourage the development of employees with a high degree of necessary skills and to stimulate a high degree of employee morale. In addition, the Commission shall provide advice and make recommendations to the Governor and the State Board of Education in such other areas of personnel management as may be requested by either the Governor or the State Board.

(b) The State Board of Education is authorized and directed to receive periodic reports and recommendations from the Commission and is empowered to implement recommendations of the Commission.

(c) The State Board of Education and the Superintendent of Public Instruction shall provide necessary staff services to the Commission in the performance of its responsibilities.

"Part 5. Employment of Handicapped.

"§ 115C-330. Employment of handicapped.—The Board and each local educational agency shall make positive efforts to employ and advance in employment qualified handicapped individuals.

"§§ 115C-331 to 115C-335: Reserved for future codification purposes.

"ARTICLE 23.

"Employment Benefits.

"§ 115C-336. Sick leave.—All public school employees shall be permitted a minimum of five days per school term of sick leave, pursuant to rules and regulations promulgated by the State Board of Education as provided in G.S. 115C-12(8).

"§ 115C-337. Workers’ Compensation for school employees.—(a) Workers’ Compensation Act Applicable to School Employees.—The provisions of the Workers’ Compensation Act shall be applicable to all school employees, and the State Board of Education shall make such arrangements necessary to carry out the provisions of the Workers’ Compensation Act applicable to such employees paid from State school funds. Liability of the State for compensation shall be confined to school employees paid by the State from State school funds for injuries or death caused by accident arising out of and in the course of their employment in connection with the State-operated school term. The State shall be liable for said compensation on the basis of the average weekly wage of such employees as defined in the Workers’ Compensation Act, whether all of said compensation for the school term is paid from State funds or in part supplemented by local funds. The State shall also be liable for workers’ compensation for all school employees employed in connection with the teaching of vocational agriculture, home economics, trades and industries, and other vocational subjects, supported in part by State and federal funds, which liability shall cover the entire period of service of such employees. The local school administrative units shall be liable for workers’ compensation for school employees, including lunchroom employees, whose salaries or wages are paid by such local units from local or special funds. Such local units are authorized and empowered to provide insurance to cover such compensation liability and to include the cost of such insurance in their annual budgets.

The provisions of this subsection shall not apply to any person, firm or corporation making voluntary contributions to schools for any purpose, and such person, firm or corporation shall not be liable for the payment of any sum of money under this Chapter.
(b) Payment of Awards to School Bus Drivers Pursuant to the Workers' Compensation Act.—In the event that the Industrial Commission shall make an award pursuant to the Workers' Compensation Act against any local board of education on account of injuries to or the death of a school bus driver arising out of and in the course of his employment as such driver, the local board of education shall draw a requisition upon the State Board of Education for the amount required to pay such award. The State Board of Education shall honor such requisition to the extent that it shall have in its hands, or subject to its control, available funds which have been or shall thereafter be appropriated by the General Assembly for the support of the school term. It shall be the duty of the local board of education to apply all funds received by it from the State Board of Education pursuant to such requisition to the payment of such award. Neither the State nor the State Board of Education shall be deemed the employer of such school bus driver, nor shall the State or the State Board of Education be liable to any school bus driver or any other person for the payment of any claim, award, or judgment under the provisions of the Workers' Compensation Act or of any other law of this State for any injury or death arising out of or in the course of the operation by such driver of a public school bus. Neither the local board of education, the local school administrative unit, nor the tax levying authorities for the local school administrative unit shall be liable for the payment of any award made pursuant to the provisions of this subsection in excess of the amount paid upon such requisition by the State Board of Education, nor shall the local school board of education, the local school administrative unit, nor the said tax levying authorities be required to provide or carry workers' compensation insurance for such purpose.

"§ 115C-338. Salaries for employees injured during an episode of violence.—
(a) For the purpose of this section, 'employee' shall mean any teacher, helping teacher, librarian, principal, supervisor, superintendent of public schools or any full-time employee, city or county, superintendent of public instruction, or any full-time employee of Department of Public Instruction, president, dean or teacher, or any full-time employee in any educational institution supported by and under the control of the State: Provided, that the term 'teacher' shall not include any part-time, temporary, or substitute teacher or employee, and shall not include those participating in an optional retirement program provided for in G.S. 135-5.1. In all cases of doubt, the Board of Trustees, as defined in G.S. 135-1(7), shall determine whether any person is a teacher as herein defined.

(b) Any employee who while engaged in the course of his employment or in any activities incidental thereto, suffers any injury or disability resulting from or arising out of any episode of violence by one or more persons shall be entitled to receive his full salary during the shortest of these periods: one year, the continuation of his disability, or the time during which he is unable to engage in his employment because of injury. An episode of violence shall be defined to mean but shall not be limited to any acts of violence directed toward any school building or facility, or to any employee or any student by any person including but not limited to another student. These benefits shall be in lieu of all other income or disability benefits payable under workers' compensation to such employee only during the period prescribed herein. Thereafter, such teacher shall be paid such income or disability payments to which he might be entitled under workers' compensation. If the employment of a substitute is necessitated by the disability of the injured employee the salary of such substitute shall be
paid from the same source of funds from which the employee is paid. This
section shall in no way limit the right of the injured employee to receive the
benefits of medical, hospital, drug and related expense payments from any
source, including workers' compensation: Provided, further, that this section
shall not apply to any employee who is injured while he participates in or
provokes such episode of violence except as is incident to the maintenance or
restoration of order or classroom discipline or to defend himself: Provided,
further, that this section shall be given liberal construction and interpretation
as to any and all definitions, conditions, and factual circumstances set forth
herein.

c) Any employee claiming the benefits of this section shall file claim with
the board of education employing such employee within one year after the
occurrence giving rise to his alleged injury. That board of education shall,
within 30 days after receipt of such claim, decide whether and to what extent
that employee is entitled to the benefits of this section and shall forthwith
transmit its decision in writing to such employee. That employee shall,
however, have the right to appeal the decision of that board of education to the
North Carolina Industrial Commission by serving that board of education and
the North Carolina Industrial Commission with written notice thereof within
30 days after receipt of the board's written decision. In determining all appeals
under this section the North Carolina Industrial Commission shall constitute a
court for the purpose of hearing de novo and passing upon all claims thereby
presented in accordance with procedures utilized by the Commission in
determining claims under the Workers' Compensation Act. The decision of the
Industrial Commission in each instance shall be subject to appeal to the North
Carolina Court of Appeals as provided in G.S. 143-293 and 143-294.

"§ 115C-339. Retirement plan.—Provisions for retirement plans for public
school employees may be found in Chapter 135 of the General Statutes.

"§ 115C-340. Health insurance.—(a) The State Board of Education may
authorize and empower any local board of education, the board of trustees of
any community college or technical institute, or other governing authority,
within the State, to establish a voluntary payroll deduction plan for premiums
for any type of group insurance, including health insurance, established and
authorized by the laws of this State.

(b) Any employee of any local board of education, any community college,
technical institute, or of any educational association, may enter into a written
agreement with his employer for the purpose of carrying out the provisions of
this section. The State Board of Education is authorized and empowered to
make and promulgate rules and regulations to carry out the purposes of this
section.

"§ 115C-341. Annuity contracts.—Notwithstanding the provisions of this
Chapter for the adoption of State and local salary schedules for the pay of
teachers, principals, superintendents, and other school employees, local boards
of education may enter into annual contracts with any employee of such board
which provide for a reduction in salary below the total established
compensation or salary schedule for a term of one year. The local board of
education shall use the funds derived from the reduction in the salary of the
employee to purchase a nonforfeitable annuity contract for the benefit of said
employee. An employee who has agreed to a salary reduction for this purpose
shall not have the right to receive the amount of the salary reduction in cash or
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in any other way except the annuity contract. Funds used by the local boards of education for the purchase of an annuity contract shall not be in lieu of any amount earned by the employee before his election for a salary reduction has become effective.

The agreement for salary reductions referred to herein shall be effected under any necessary regulations and procedures adopted by the State Board of Education and on forms prepared by the State Board of Education.

Notwithstanding any other provisions of this section, the amount by which the salary of any employee is reduced pursuant to this section shall be included in computing and making payroll deductions for social security and retirement system purposes, and in computing and providing matching funds for retirement system purposes.

"§ 115C-342. Group insurance and credit unions.—(a) The State Board of Education may authorize and empower any local board of education, the board of trustees of any community college or technical institute, or other governing authority, within the State, to establish a voluntary payroll deduction plan for:

1. Premiums for any type of group insurance established and authorized by the laws of this State.

2. Amounts authorized by members of the State Employees' Credit Union or any local teachers' credit unions to be deposited with such organizations.

3. Loans made to teachers by credit unions.

(b) Any employee of any local board of education, any community college, technical institute, or of any educational association, may enter into a written agreement with his employer for the purpose of carrying out the provisions of this section. The State Board of Education is authorized and empowered to make and promulgate rules and regulations to carry out the purposes of this section.

(c) Any public school teacher who is a member of a credit union organized and established under Chapter 54 of the General Statutes may, by executing a written consent to the local school administrative unit by whom employed, authorize periodical payment or obligation to such credit union to be deducted from their salaries or wages, and such deductions shall be made and paid to said credit union as and when said salaries and wages are payable.

"§ 115C-343. Payroll savings plan for purchase of United States bonds.—(a) The State Board of Education may authorize any local school administrative school unit within the State to establish a voluntary payroll deduction plan for the purchase of United States Savings Bonds by the employees of such local school administrative unit, and to set up the necessary machinery for carrying out the purposes of this section.

(b) Any employee of any local school administrative school unit within the State may enter into a written agreement with the local board of education by which he is employed and which has adopted such payroll savings plan to authorize deductions from his salary of certain designated sums to be invested in United States Savings Bonds of the kind and type specified in such agreement.

(c) Upon execution of such agreement by an employee of any local school administrative unit the local board of education employing such person is authorized and empowered to deduct the sum specified in said agreement from the weekly or monthly salary of such employee and to show deductions on all
payrolls in a manner similar to that in the weekly or monthly salary of such employee and to show deductions on all payrolls in a manner similar to that in which withholding tax and retirement are shown. Such sums shall be deposited monthly with a depository authorized by the United States Treasury Department. The sums so deposited shall be held by the depository until sufficient moneys have accumulated to the credit of each individual sufficient to purchase a bond, and such sums shall be invested in United States Savings Bonds for and on behalf of such employee, and the bonds shall be delivered to the employee as soon as practicable: Provided, that no coercion shall be exercised to require any person to participate in such plan.

(d) Such agreement may be canceled by the employee executing the same by giving written notice to the superintendent of schools who is ex officio secretary to the local board of education, not later than the fifteenth day of the month in which he desires such agreement to be terminated; and the local board of education may cancel any agreement herein provided for upon giving 10 days written notice to the affected employee. Upon the termination of the agreement, the depository is hereby authorized and directed to refund any amount of money held for such employee.

"§ 115C-344 to 115C-348: Reserved for future codification purposes.

"ARTICLE 24.

"Interstate Agreement on Qualifications of Educational Personnel.

"§ 115C-349. Purpose, findings, and policy.—(a) The states party to this agreement, desiring by common action to improve their respective school systems by utilizing the teacher or other professional educational person wherever educated, declare that it is the policy of each of them, on the basis of cooperation with one another, to take advantage of the preparation and experience of such persons wherever gained, thereby serving the best interests of society, of education, and of the teaching profession. It is the purpose of this agreement to provide for the development and execution of such programs of cooperation as will facilitate the movement of teachers and other professional educational personnel among the states party to it, and to authorize specific interstate educational personnel contracts to achieve that end.

(b) The party states find that included in the large movement of population among all sections of the nation are many qualified educational personnel who move for family and other personal reasons but who are hindered in using their professional skill and experience in their new locations. Variations from state to state in requirements for qualifying educational personnel discourage such personnel from taking the steps necessary to qualify in other states. As a consequence, a significant number of professionally prepared and experienced educators is lost to our school systems. Facilitating the employment of qualified educational personnel, without reference to their states of origin, can increase the available educational resources. Participation in this Compact can increase the availability of educational manpower.

"§ 115C-350. Definitions.—As used in this agreement and contracts made pursuant to it, unless the context clearly requires otherwise:

(1) 'Accept', or any variant thereof, means to recognize and give effect to one or more determinations of another state relating to the qualifications of educational personnel in lieu of making or requiring a like determination that would otherwise be required by or pursuant to the laws of a receiving state.
(2) 'Designated state official' means the educational official of a state selected by that state to negotiate and enter into, on behalf of his state, contracts pursuant to this agreement.

(3) 'Educational personnel' means persons who must meet requirements pursuant to state law as a condition of employment in educational programs.

(4) 'Originating state' means a state (and the subdivision thereof, if any) whose determination that certain educational personnel are qualified to be employed for specific duties in schools, is acceptable in accordance with the terms of a contract made pursuant to G.S. 115C-351.

(5) 'Receiving state' means a state (and the subdivisions thereof) which accepts educational personnel in accordance with the terms of a contract made pursuant to G.S. 115C-351.

(6) 'State' means a state, territory, or possession of the United States; the District of Columbia; or the Commonwealth of Puerto Rico.

"§ 115C-351. Interstate educational personnel contracts.—(a) The designated state official of a party state may make one or more contracts on behalf of his state with one or more other party states providing for the acceptance of educational personnel. Any such contract for the period of its duration shall be applicable to and binding on the states whose designated state officials enter into it, and the subdivisions of those states, with the same force and effect as if incorporated in this agreement. A designated state official may enter into a contract pursuant to this section only with states in which he finds that there are programs of education, certification standards or other acceptable qualifications that assure preparation or qualification of educational personnel on a basis sufficiently comparable, even though not identical to that prevailing in his own state.

(b) Any such contract shall provide for:

(1) Its duration.

(2) The criteria to be applied by an originating state in qualifying educational personnel for acceptance by a receiving state.

(3) Such waivers, substitutions, and conditional acceptances as shall aid the practical effectuation of the contract without sacrifice of basic educational standards.

(4) Any other necessary matters.

(c) No contract made pursuant to this agreement shall be for a term longer than five years but any such contract may be renewed for like or lesser periods.

(d) Any contract dealing with acceptance of educational personnel on the basis of their having completed an educational program shall specify the earliest date or dates on which originating state approval of the program or programs involved can have occurred. No contract made pursuant to this agreement shall require acceptance by a receiving state of any persons qualified because of successful completion of a program prior to January 1, 1954.

(e) The certification or other acceptance of a person who has been accepted pursuant to the terms of a contract shall not be revoked or otherwise impaired because the contract has expired or been terminated. However, any certificate or other qualifying document may be revoked or suspended on any ground which would be sufficient for revocation or suspension of a certificate or other qualifying document initially granted or approved in the receiving state.

(f) A contract committee composed of the designated state officials of the contracting states or their representatives shall keep the contract under
continuous review, study means of improving its administration, and report no less frequently than once a year to the heads of the appropriate education agencies of the contracting states.

"§ 115C-352. Approved and accepted programs.—(a) Nothing in this agreement shall be construed to repeal or otherwise modify any law or regulation of a party state relating to the approval of programs of educational preparation having effect solely on the qualification of educational personnel within that state.

(b) To the extent that contracts made pursuant to this agreement deal with the educational requirements for the proper qualification of educational personnel, acceptance of a program of educational preparation shall be in accordance with such procedures and requirements as may be provided in the applicable contract.

"§ 115C-353. Interstate cooperation.—The party states agree that:

(1) They will, so far as practicable, prefer the making of multilateral contracts pursuant to G.S. 115C-351 of this agreement.

(2) They will facilitate and strengthen cooperation in interstate certification and other elements of educational personnel qualification and for this purpose shall cooperate with agencies, organizations, and associations interested in certification and other elements of educational personnel qualification.

"§ 115C-354. Agreement evaluation.—The designated state officials of any party state(s) may meet from time to time as a group to evaluate progress under the agreement, and to formulate recommendations for changes.

"§ 115C-355. Other arrangements.—Nothing in this agreement shall be construed to prevent or inhibit other arrangements or practices of any party state or states to facilitate the interchange of educational personnel.

"§ 115C-356. Effect and withdrawal.—(a) This agreement shall become effective when enacted into law by two states. Thereafter it shall become effective as to any state upon its enactment of this agreement.

(b) Any party state may withdraw from this agreement by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states.

(c) No withdrawal shall relieve the withdrawing state of any obligation imposed upon it by a contract to which it is a party. The duration of contracts and the methods and conditions of withdrawal therefore shall be those specified in their terms.

"§ 115C-357. Construction and severability.—This agreement shall be liberally construed so as to effectuate the purposes thereof. The provisions of this agreement shall be severable and if any phrase, clause, sentence, or provision of this agreement is declared to be contrary to the constitution of any state or of the United States, or the application thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this agreement shall be held contrary to the constitution of any state participating therein, the agreement shall remain in full force and effect as to the state affected as to all severable matters.

"§ 115C-358. Designated state official.—For the purposes of the agreement set forth in this Article the 'designated state official' for this State shall be the
Superintendent of Public Instruction. He shall enter into contracts pursuant to G.S. 115C-351 only with the approval of the specific text thereof by the State Board of Education.

"§§ 115C-359 to 115C-363: Reserved for future codification purposes.

"SUBCHAPTER VI.

"Students.

"ARTICLE 25.

"Admission and Assignment of Students.

"§ 115C-364. Admission requirements.—Children to be entitled to enrollment in the public schools must have passed the sixth anniversary of their birth before October 1 of the year in which they enroll, and must enroll during the first month of the school year: Provided, that if a particular child has already been attending school in another state in accordance with the laws or regulations of the school authorities of such state before moving to and becoming a resident of North Carolina, such child will be eligible for enrollment in the schools of this State regardless of whether such child has passed the sixth anniversary of his birth before October 1. The State Board of Education is hereby authorized and empowered, in its discretion, to change the above dates of October 1. The principal of any public school shall have the authority to require the parents of any child presented for admission for the first time to such school to furnish a certified copy of the birth certificate of such child, which shall be furnished without charge by the register of deeds of the county having on file the record of the birth of such child, or other satisfactory evidence of date of birth.

"§ 115C-365. Children at orphanages admitted to public schools.—Children living in and cared for and supported by an institution established or incorporated for the purpose of rearing and caring for orphan children shall be considered legal residents of the local school administrative unit in which the institution is located, and a part or all of said orphan children shall be permitted to attend the public schools of their local school administrative unit: Provided, that the provisions of this section shall be permissive only, and shall not be mandatory.

"§ 115C-366. Assignment of student to a particular school.—(a) All pupils residing in a school district or attendance area, who have not been removed from school for cause, shall be entitled to all the privileges and advantages of the public schools of such district or attendance area in such school buildings to which they are assigned by local boards of education: Provided, that wherever pupils from nontax units, districts, or attendance areas, are assigned to a school in a tax unit, district, or attendance area, the assignment shall be for only the current school year, unless satisfactory agreements are reached between all units, districts, or attendance areas concerned: Provided, further, that pupils residing in one local school administrative unit may be assigned either with or without the payment of tuition to a school located in another local school administrative unit upon such terms and conditions as may be agreed in writing between the boards of education of the local school administrative units involved and entered upon the official records of such boards: Provided, further, that the assignment of pupils living in one local school administrative unit or district to a school located in another local school administrative unit or district, either with or without the payment of tuition, shall have no effect upon the right of the local school administrative unit or district to which said
pupils are assigned to levy and collect any supplemental tax heretofore or hereafter voted in such local school administrative unit or district: Provided, further, the boards of education of adjacent local school administrative units may operate schools in adjacent units upon written agreements between the respective boards of education and approval by the county commissioners and the State Board of Education.

Unless otherwise assigned by the local board of education, the following pupils are entitled to attend the schools in the district or attendance area in which they reside: Provided, the superintendent, or the principal with the approval of the superintendent, of the local school administrative unit may, in his discretion, prohibit the enrollment of or remove from school any pupil who has attained the age of 21 years:

(1) All persons of the district or attendance area who have not completed the prescribed course for graduation in the high school.

(2) All pupils whose parents have recently moved into the unit, district, or attendance area for the purpose of making their legal residence in the same.

(3) Any pupil living with either father, mother or guardian who has made his permanent home within the district.

(b) Each local board of education is hereby authorized and directed to provide for the assignment to a public school of each child residing within the local school administrative unit who is qualified under the laws of this State for admission to a public school. Except as otherwise provided in G.S. 115C-366(b), 115C-367 to 115C-370 and 115C-116, the authority of each board of education in the matter of assignment of children to the public schools shall be full and complete, and its decision as to the assignment of any child to any school shall be final. A child residing in one local school administrative unit may be assigned either with or without the payment of tuition to a public school located in another local school administrative unit upon such terms and conditions as may be agreed in writing between the boards of education of the local school administrative units involved and entered upon the official records of such boards. No child shall be enrolled in or permitted to attend any public school other than the public school to which the child has been assigned by the appropriate board of education. In exercising the authority conferred by this subsection, each local board of education shall make assignments of pupils to public schools so as to provide for the orderly and efficient administration of the public schools, and provide for the effective instruction, health, safety, and general welfare of the pupils. Each board of education may adopt such reasonable rules and regulations as in the opinion of the board are necessary in the administration of G.S. 115C-366(b), 115C-367 to 115C-370 and 115C-116.

"§ 115C-367. Assignment on certain bases prohibited.—No person shall be refused admission to or be excluded from any public school in this State on account of race, creed, color or national origin. No school attendance district or zone shall be drawn for the purpose of segregating persons of various races, creeds, colors or national origins from the community.

Where local school administrative units have divided the geographic area into attendance districts or zones, pupils shall be assigned to schools within such attendance districts: Provided, however, that the board of education of a local school administrative unit may assign any pupil to a school outside of such attendance district or zone in order that such pupil may attend a school of a
specialized kind including but not limited to a vocational school or school operated for, or operating programs for, pupils mentally or physically handicapped, or for any other reason which the board of education in its sole discretion deems sufficient.

The provisions of G.S. 115C-366(b), 115C-367 to 115C-370 and 115C-116 shall not apply to a temporary assignment due to the unsuitability of a school for its intended purpose nor to any assignment or transfer necessitated by overcrowded conditions or other circumstances which, in the sole discretion of the school board, require assignment or reassignment.

The provisions of G.S. 115C-366(b), 115C-367 to 115C-370 and 115C-116 shall not apply to an application for the assignment or reassignment by the parent, guardian or person standing in loco parentis of any pupil or to any assignment made pursuant to a choice made by any pupil who is eligible to make such choice pursuant to the provisions of a freedom of choice plan voluntarily adopted by the board of education of a local school administrative unit.

"§ 115C-368. Notice of assignment.—In exercising the authority conferred by G.S. 115C-366(b), each local board of education may, in making assignments of pupils, give individual written notice of assignment, on each pupil's report card or by written notice by any other feasible means, to the parent or guardian of each child or the person standing in loco parentis to the child, or may give notice of assignment of groups or categories of pupils by publication at least two times in some newspaper having general circulation in the local administrative unit.

"§ 115C-369. Application for reassignment; notice of disapproval; hearing before board.—The parent or guardian of any child, or the person standing in loco parentis to any child, who is dissatisfied with the assignment made by a local board of education may, within 10 days after notification of the assignment, or the last publication thereof, apply in writing to the local board of education for the reassignment of the child to a different public school. Application for reassignment shall be made on forms prescribed by the local board of education pursuant to rules and regulations adopted by the board of education. If the application for reassignment is disapproved, the local board of education shall give notice to the applicant by registered mail, and the applicant may within five days after receipt of such notice apply to the local board for a hearing, and shall be entitled to a prompt and fair hearing on the question of reassignment of such child to a different school. A majority of the local board shall be a quorum for the purpose of holding such hearing and passing upon application for reassignment, and the decision of a majority of the members present at the hearing shall be the decision of the board. If, at the hearing, the local board shall find that the child is entitled to be reassigned to such school, or if the local board shall find that the reassignment of the child to such school will be for the best interests of the child, and will not interfere with the proper administration of the school, or with the proper instruction of the pupils there enrolled, and will not endanger the health or safety of the children there enrolled, the local board shall direct that the child be reassigned to and admitted to such school. The local board shall render prompt decision upon the hearing, and notice of the decision shall be given to the applicant by registered mail.

"§ 115C-370. Appeal from board's decision.—A final decision of the local board of education pursuant to G.S. 115C-369 shall be subject to judicial review
in the manner provided by Article 4, Chapter 150A of the General Statutes: Provided, notwithstanding the provisions of G.S. 150A-45, a person seeking judicial review under this section shall not appeal the final decision of the local board of education to any State board, but shall file a petition for review in the superior court of the county where the final decision of the local board of education was made. If the court determines that the final decision of the local board of education should be set aside, then the court, notwithstanding the provisions of G.S. 150A-51, may enter an order so providing and adjudging that such child is entitled to attend the school as claimed by the appellant, or such other school as the court may find such child is entitled to attend, and in such case such child shall be admitted to such school by the local board of education concerned.

"§115C-371. Assignment to special education programs. Assignment of students to special education programs is subject to the provisions of G.S. 115C-116.

"§115C-372. Assignment to school bus. Assignment of students to school buses is subject to the provisions of G.S. 115C-244.

"§§ 115C-373 to 115C-377: Reserved for future codification purposes.

"ARTICLE 26.

"Attendance.


"§115C-378. Children between seven and 16 required to attend. Every parent, guardian or other person in this State having charge or control of a child between the ages of seven and 16 years shall cause such child to attend school continuously for a period equal to the time which the public school to which the child is assigned shall be in session. No person shall encourage, entice or counsel any such child to be unlawfully absent from school.

The principal, superintendent, or teacher who is in charge of such school shall have the right to excuse a child temporarily from attendance on account of sickness or other unavoidable cause which does not constitute unlawful absence as defined by the State Board of Education. The term 'school' as used herein is defined to embrace all public schools and such nonpublic schools as have teachers and curricula that are approved by the State Board of Education.

All nonpublic schools receiving and instructing children of a compulsory school age shall be required to keep such records of attendance and render such reports of the attendance of such children and maintain such minimum curriculum standards as are required of public schools; and attendance upon such schools, if the school refuses or neglects to keep such records or to render such reports, shall not be accepted in lieu of attendance upon the public school of the district to which the child shall be assigned: Provided, that instruction in a nonpublic school shall not be regarded as meeting the requirements of the law unless the courses of instruction run concurrently with the term of the public school in the district and extend for at least as long a term.

The principal shall notify the parent, guardian, or custodian of his child's excessive number of absences from school after his child has five consecutive or 10 accumulated absences whichever occurs first, unless the principal is satisfied that these absences are excused under the established attendance policies of the local board. Once the parents are notified, the school attendance counselor shall work with the child and his family to analyze the causes of the absences and determine steps, including adjustment of the school program or obtaining
supplemental services, to eliminate the problem. The attendance counselor may request that a law enforcement officer accompany him if he believes that a home visit is necessary.

Notification of a parent shall be in writing and shall state that the parent may be prosecuted under Part 1 of this Article if these absences cannot be justified under the established attendance policies of the local school board. The principal shall notify the prosecutor after 30 accumulated absences, unless he has notified the prosecutor sooner. Evidence that shows that the parents, guardian, or custodian were notified and that the child has accumulated 30 absences which cannot be justified under the established attendance policies of the local board shall establish a prima facie case that the child's parent, guardian, or custodian is responsible for the absences.

"§ 115C-379. Method of enforcement.—It shall be the duty of the State Board of Education to formulate such rules and regulations as may be necessary for the proper enforcement of the provisions of this Part. The Board shall prescribe what shall constitute unlawful absence, what causes may constitute legitimate excuses for temporary nonattendance due to physical or mental inability to attend, and under what circumstances teachers, principals, or superintendents may excuse pupils for nonattendance due to immediate demands of the farm or the home in certain seasons of the year in the several sections of the State. It shall be the duty of all school officials to carry out such instructions from the State Board of Education, and any school official failing to carry out such instructions shall be guilty of a misdemeanor: Provided, that the compulsory attendance law herein prescribed shall not be in force in any local school administrative unit that has a higher compulsory attendance feature than that provided herein.

"§ 115C-380. Penalty for violation.—Any parent, guardian or other person violating the provisions of this Part shall be guilty of a misdemeanor and upon conviction shall be fined not more than fifty dollars ($50.00) or imprisoned not more than 30 days, or both, in the discretion of the court.

"§ 115C-381. Attendance counselors; reports; prosecutions.—The Superintendent of Public Instruction shall prepare such rules and procedures and furnish such blanks for teachers and other school officials as may be necessary for reporting such case of unlawful absence or lack of attendance to the attendance counselor of the respective local school administrative units. Such rules shall provide, among other things, for a notification in writing, to the person responsible for the nonattendance of any child, that the case is to be reported to the attendance counselor of the local school administrative unit unless the law is complied with immediately. Upon recommendation of the superintendent, local boards of education may employ attendance counselors and such counselors shall have authority to report and verify on oath the necessary criminal warrants or other documents for the prosecutions of violations of this Part: Provided, that local school administrative units shall provide in their local operating budgets for travel and necessary office expense for such attendance counselors as may be employed through State or local funds, or both. The State Board of Education shall determine the formula for allocating attendance counselors to the various local school administrative units, establish their qualifications, and develop a salary schedule which shall be applicable to such personnel: Provided, that persons now employed by local boards of education as attendance officers shall be deemed qualified as
attendance counselors under the terms of this Part subject to the approval of said local boards of education: Provided, further, that until qualified persons become available, local boards of education are hereby authorized to employ as attendance counselors persons not determined by the State Board of Education to be qualified under the terms of this Part.

The school attendance counselor shall investigate all violators of the provisions of this Part. The reports of unlawful absence required to be made by teachers and principals to the attendance counselor shall, in his hands, in case of any prosecution, constitute prima facie evidence of the violation of this Part and the burden of proof shall be upon the defendant to show the lawful attendance of the child or children upon an authorized school.

"§ 115C-382. Investigation of indigency.—If affidavit shall be made by the parent of a child or by any other person that any child between the ages of seven and 16 years is not able to attend school by reason of necessity to work or labor for the support of himself or the support of the family, then the attendance counselor shall diligently inquire into the matter and bring it to the attention of some court allowed by law to act as a juvenile court, and said court shall proceed to find whether as a matter of fact such parents, or persons standing in loco parentis, are unable to send said child to school for the term of compulsory attendance for the reasons given. If the court shall find, after careful investigation, that the parents have made or are making bona fide effort to comply with the compulsory attendance law, and by reason of illness, lack of earning capacity, or any other cause which the court may deem valid and sufficient, are unable to send said child to school, then the court shall find and state what help is needed for the family to enable compliance with the attendance law. The court shall transmit its findings to the director of social services of the county or city in which the case may arise for such social services officer's consideration and action.

"§ 115C-383. Attendance of deaf and blind children.—(a) Deaf Children and Blind Children to Attend School; Age Limits; Minimum Attendance.—Every deaf child and every blind child between the ages of six and 18 years of sound mind in North Carolina who shall be qualified for admission into a State school for the deaf or the blind shall attend a school that has an approved program for the deaf or the blind, or in the case of a blind child, such child may attend a public school, for a term of not less than nine months each year. Parents, guardians, or custodians of every such blind or deaf child between the ages of six and 18 years shall send, or cause to be sent, such child to some school for the instruction of the blind or deaf or public school as herein provided. As to any deaf child, or any blind child not attending a public school as herein provided, the superintendent of any school for the blind or deaf may exempt any such child from attendance at any session or during any year, and may discharge from his custody any such blind or deaf child whenever such discharge seems necessary or proper. Such discharge or exemption shall be reviewed by the board of directors upon petition by the parent, guardian, or other interested person or the child who has been exempted or discharged: Provided, however, that such board shall not be required to review such discharge or exemption more than once during each calendar year. Whenever a blind or deaf child reaches the age of 18 years and is still unable to become self-supporting because of his defects, such child shall continue in said school until he reaches the age of 21, unless he becomes capable of self-support at an earlier date.
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(b) Parents, etc., Failing to Enroll Deaf Child in School Guilty of Misdemeanor; Provisos.—The parents, guardians, or custodians of any deaf child between the ages of six and 18 years failing to enroll such deaf child or children in some school for instruction as provided herein, shall be guilty of a misdemeanor, and upon conviction shall be fined or imprisoned, at the discretion of the court: Provided, that this subsection shall not apply to or be enforced against the parent, guardian, or custodian of any deaf child until such time as the superintendent of any school for the instruction of the deaf shall in his discretion serve written notice on such parent, guardian, or custodian, directing that such child be sent to the institution, advising such parents, guardians, or custodians of the legal requirements of this subsection: Provided, further, that the willful failure of such parent, guardian, or custodian shall constitute a continuing offense and shall not be barred by the statute of limitations.

(c) Parents, etc., Failing to Send Blind Child to School Guilty of Misdemeanor; Provisos.—The parents, guardians, or custodians of any blind child between the ages of six and 18 years failing to send such child to some school for the instruction of the blind or public school shall be guilty of a misdemeanor, and upon conviction shall be fined or imprisoned, at the discretion of the court. This subsection shall not be enforced against the parents, guardians, or custodians of any blind child until such time as the superintendent of some school for the instruction of the blind shall in his discretion serve written notice on such parents, guardians, or custodians directing that such child be sent to the said school or to a public school, advising such parents, guardians, or custodians of the legal requirements of this subsection: Provided, further, that the willful failure of such parents, guardians, or custodians shall constitute a continuing offense and shall not be barred by the statute of limitations. The authorities of the Governor Morehead School shall not be compelled to retain in their custody or under their instruction any incorrigible person of confirmed immoral habits.

(d) Local Superintendent to Report Blind and Deaf Children.—It shall be the duty of the local superintendents to report the names and addresses of parents, guardians, or custodians of any deaf or blind children residing within their respective local school administrative units to the superintendent of the institution provided for each. Such report also shall be made to the Department of Public Instruction.

"Part 2. Student Records and Fees.

"§ 115C-384. Student records and fees.—(a) In General.—The local board of education has the power to regulate fees, charges and solicitations subject to the provisions of G.S. 115C-47(f).

(b) Refund of Fees Upon Transfer of Pupils.

(1) As used in this subsection:
   a. ‘Month’ shall mean 20 school days.
   b. ‘First semester’ shall mean the first 90 teaching days of the 180 days of the school year.
   c. ‘Second semester’ shall mean the last 90 teaching days of the 180 days of the school year.
   d. ‘Term’ shall have the same meaning as that of first semester or second semester.
(2) In all cases where pupils of a local school administrative unit of the public school system transfer to some other public school in another local school administrative unit or such pupils are compelled to leave the school in which they are enrolled because of some serious or permanent illness, or for any other good and valid reason, then such pupils or their parents shall be entitled to a refund of the fees and charges paid by them as follows:

a. If the transfer or departure of the pupils from the school in which they are enrolled takes place within one month after enrollment, then all such fees and charges shall be refunded in full.

b. If the transfer or leaving the school on the part of said pupils takes place after the first month and before the middle of the first semester, then one half of the fees for the first semester shall be refunded, and all fees and charges for the second semester shall be refunded.

c. If the pupils transfer or leave the school after the middle of the first semester, then no first semester fees or charges shall be refunded.

d. If the fees and charges on the part of such pupils have been paid for a year and such pupils transfer or leave the school at the end of the first semester or within the first month of the second semester, then all second semester fees and charges shall be refunded in full.

e. If the fees and charges herein described and set forth have been paid for one year, and the pupils transfer or leave the school before the middle of the second semester, then one half of the second semester fees shall be refunded.

f. The words 'fees' and 'charges' as used in this subsection shall not include any fees or charges paid for insurance or fees charged for expendable materials.

g. If the pupils transfer or leave the school after the middle of the second semester, then no fees shall be refunded.

h. If the amount of total refund as determined by this subsection shall be less than one dollar ($1.00), no refund shall be paid.

(3) The principal shall be responsible for refunding fees and charges at the place of the collection of the fees and charges by check made payable to the parent or guardian of pupils leaving the school as noted in subdivision (2) above.

(c) Rental Fees for Textbooks Prohibited; Damage Fees Authorized.—No rental fees are permitted for the use of textbooks, but damage fees may be collected pursuant to the provisions of G.S. 115C-100.

"§ 115C-385 to 115C-389: Reserved for future codification purposes.

"ARTICLE 27.

"Discipline.

"§ 115C-390. School personnel may use reasonable force.—Principals, teachers, substitute teachers, voluntary teachers, teacher aides and assistants and student teachers in the public schools of this State may use reasonable force in the exercise of lawful authority to restrain or correct pupils and maintain order. No local board of education or district committee shall promulgate or continue in effect a rule, regulation or bylaw which prohibits the use of such force as is specified in this section.
“§ 115C-391. Suspension or expulsion of pupils.—(a) Local boards of education shall adopt policies governing the conduct of students and shall cause these policies to be published and made available at the beginning of each school year to each student and his parents. Local boards of education shall also adopt policies, not inconsistent with the provisions of this section or the Constitutions of the United States and North Carolina, establishing procedures to be followed by school officials in suspending or expelling any pupil from school and shall cause such procedures to be published and made available at the beginning of each school year to each student and his parents.

(b) The principal of a school, or his delegate, shall have authority to suspend for a period of 10 days or less any student who willfully violates policies of conduct established by the local board of education: Provided, that a student suspended pursuant to this subsection shall be provided an opportunity to take any quarterly, semester or grading period examinations missed during the suspension period.

(c) The principal of a school, with the prior approval of the superintendent, shall have the authority to suspend for periods of times in excess of 10 school days but not exceeding the time remaining in the school year, any pupil who willfully violates the policies of conduct established by the local board of education. The pupil or his parents may appeal the decision of the principal to the local board of education.

(d) A local board of education may, upon recommendation of the principal and superintendent, expel any student 14 years of age or older who has been convicted of a felony and whose continued presence in school constitutes a clear threat to the safety and health of other students or employees. Notwithstanding the provisions of G.S. 115C-112, a local board of education has no duty to continue to provide a child with special needs, expelled pursuant to this subsection, with any special education or related services during the period of expulsion.

(e) A final decision of the local board of education pursuant to subsections (c) and (d) shall be subject to judicial review in the manner provided by Article 4, Chapter 150A of the General Statutes.

“§ 115C-392. Appeal of disciplinary measures.—Appeals of disciplinary measures are subject to the provisions of G.S. 115C-45(c).

“§§ 115C-393 to 115C-397: Reserved for future codification purposes.

“ARTICLE 28.

“Student Liability.

“§ 115C-398. Damage to school buildings, furnishings, textbooks.—(a) Students may be liable for damage to school buildings, furnishings and textbooks pursuant to the provisions of G.S. 115C-523, 115C-100 and 14-132.

“§ 115C-399. Trespass on or damage to school bus.—Any person who willfully trespasses upon or damages a school bus may be liable pursuant to the provisions of G.S. 14-132.2.

“ARTICLE 29.

“Protective Provisions and

“Maintenance of Student Records.

“§ 115C-400. School personnel to report child abuse.—Any person who has cause to suspect child abuse or neglect has a duty to report the case of the child to the Director of Social Services of the county, as provided in G.S. 7A-543 to 552.
§ 115C-401. School counseling inadmissible evidence.—Information given to a school counselor to enable him to render counseling services may be privileged as provided in G.S. 8-53.4.

§ 115C-402. Student records; maintenance; contents.—The official record of each student enrolled in North Carolina public schools shall be permanently maintained in the files of the appropriate school after the student graduates, or should have graduated, from high school.

The official record shall contain, as a minimum, adequate identification data including date of birth, attendance data, grading and promotion data, and such other factual information as may be deemed appropriate by the local board of education having jurisdiction over the school wherein the record is maintained.

§§ 115C-403 to 115C-407: Reserved for future codification purposes.

"SUBCHAPTER VII.

"Fiscal Affairs.

"ARTICLE 30.

"Financial Powers of the State Board of Education.

§ 115C-408. Funds under control of the State Board of Education.—The Board shall have general supervision and administration of the educational funds provided by the State and federal governments, except those mentioned in Sec. 7 of Article IX of the State Constitution, and also excepting such local funds as may be provided by a county, city, or district.

§ 115C-409. Power to accept federal funds and aid.—(a) The Board is authorized to accept, receive, use or reallocate to local school administrative units any federal funds, or aids, that may be appropriated now or hereafter by the federal government for the encouragement and improvement of any phase of the free public school program which, in the judgment of the Board, will be beneficial to the operation of the schools. However, the Board is not authorized to accept any such funds upon any condition that the public schools of this State shall be operated contrary to any provisions of the Constitution or statutes of this State.

(b) The State Board of Education or any other State agency designated by the Governor shall have the power and authority to provide library resources, textbooks, and other instructional materials purchased from federal funds appropriated for the funding of the Elementary and Secondary Education Act of 1965 (Public Law 89-10, 89th Congress, HR 2362, effective April 11, 1965) or other acts of Congress for the use of children and teachers in primary elementary and secondary schools in the State as required by acts of Congress and rules and regulations promulgated thereunder.

§ 115C-410. Power to accept gifts and grants.—The Board is authorized to accept, receive, use, or reallocate to local school administrative units any gifts, donations, grants, bequests, or other forms of voluntary contributions.

§ 115C-411. Authority to invest school funds.—The Board is authorized to direct the State Treasurer to invest in interest-bearing securities any funds which may come into its possession, and which it deems expedient to invest, as other funds of the State are now or may be hereafter invested.

§ 115C-412. Power to purchase at mortgage sales.—The State Board of Education is authorized to purchase at public sale any land upon which it has a mortgage or deed of trust securing the purchase price, or any part thereof, and when any land so sold and purchased by the said Board of Education is a part of
a drainage district theretofore constituted, upon which said land assessments have been levied for the maintenance thereof, such assessments shall be paid by the said State Board of Education, as if said land had been purchased or owned by an individual.

"§ 115C-413. Power to adjust debts.—The State Board of Education is hereby authorized and empowered to settle, compromise or otherwise adjust any indebtedness due it upon the purchase price of any land or property sold by it, or to cancel and surrender the notes, mortgages, trust deeds, or other evidence of indebtedness without payment, when, in the discretion of said Board, it appears that it is proper to do so. The Board of Education is further authorized and empowered to sell or otherwise dispose of any such notes, mortgages, trust deeds, or other evidence of indebtedness.

"§ 115C-414. State Board as successor to powers of abolished commissions and boards.—The Board shall succeed to all the powers and trusts of the president and directors of the Literary Fund of North Carolina; and to all the powers, functions, duties, and property of all abolished commissions and boards including the State School Commission, the State Textbook Commission, the Department of Human Resources, and the State Board of Commercial Education, including the power to take, hold and convey property, both real and personal, to the same extent that any corporation might take, hold and convey the same under the laws of this State.

"§ 115C-415. Report on operation of State Literary Fund.—The State Board of Education shall report to the General Assembly on the operation of the State Literary Fund.

"§ 115C-416. Power to allot funds for teachers and other personnel.—The Board shall have power to provide for the enrichment and strengthening of educational opportunities for the children of the State, and when sufficient State funds are available to provide first for the allotment of such a number of teachers as to prevent the teacher load from being too great in any school, the Board is authorized, in its discretion, to make an additional allotment of teaching personnel to local school administrative units of the State to be used either jointly or separately, as the Board may prescribe. Such additional teaching personnel may be used in the local school administrative units as librarians, special teachers, or supervisors of instruction and for other special instructional services such as art, music, physical education, adult education, special education, or industrial arts as may be authorized and approved by the Board. The salary of all such personnel shall be determined in accordance with the State salary schedule adopted by the Board.

In addition, the Board is authorized and empowered in its discretion, to make allotments of funds for clerical assistants for classified principals and for attendance counselors.

The Board is further authorized, in its discretion, to allot teaching personnel to local school administrative units for experimental programs and purposes.

"§§ 115C-417 to 115C-421: Reserved for future codification purposes.

"ARTICLE 31.

"The School Budget and Fiscal Control Act.


"§ 115C-422. Short title.—This Article may be cited as 'The School Budget and Fiscal Control Act'.
§ 115C-423. Definitions.—The words and phrases defined in this section have the meanings indicated when used in this Article, unless the context clearly requires another meaning:

1. 'Budget' is a plan proposed by a board of education for raising and spending money for specified school programs, functions, activities, or objectives during a fiscal year.

2. 'Budget resolution' is a resolution adopted by a board of education that appropriates revenues for specified school programs, functions, activities, or objectives during a fiscal year.

3. 'Budget year' is the fiscal year for which a budget is proposed and a budget resolution is adopted.

4. 'Fiscal year' is the annual period for the compilation of fiscal operations.
   The fiscal year begins on July 1 and ends on June 30.

5. 'Fund' is an independent fiscal and accounting entity consisting of cash and other resources together with all related liabilities, obligations, reserves, and equities which are segregated by appropriate accounting techniques for the purpose of carrying on specific activities or attaining certain objectives in accordance with established legal regulations, restrictions or limitations.

§ 115C-424. Uniform system; conflicting laws and local acts superseded.—It is the intent of the General Assembly by enactment of this Article to prescribe for the public schools a uniform system of budgeting and fiscal control. To this end, all provisions of general laws and local acts in effect as of July 1, 1976, and in conflict with the provisions of this Article are repealed except local acts providing for the levy or for the levy and collection of school supplemental taxes. No local act enacted or taking effect after July 1, 1976, may be construed to modify, amend, or repeal any portion of this Article unless it expressly so provides by specific reference to the appropriate section.

Part 2. Budget.

§ 115C-425. Annual balanced budget resolution.—(a) Each local school administrative unit shall operate under an annual balanced budget resolution adopted and administered in accordance with this Article. A budget resolution is balanced when the sum of estimated net revenues and appropriated fund balances is equal to appropriations. Appropriated fund balance in any fund shall not exceed the sum of cash and investments minus the sum of liabilities, encumbrances, and deferred revenues, as those figures stand at the close of the fiscal year next preceding the budget year. The budget resolution shall cover one fiscal year.

(b) It is the intent of this Article that all moneys received and expended by a local school administrative unit should be included in the school budget resolution. Therefore, notwithstanding any other provisions of law, after July 1, 1976, no local school administrative unit may expend any moneys, regardless of their source (including moneys derived from federal, State, or private sources), except in accordance with a budget resolution adopted pursuant to this Article.

(c) Subsection (b) of this section does not apply to funds of individual schools, as defined in G.S. 115C-448.

§ 115C-426. Uniform budget format.—(a) The State Board of Education, in cooperation with the Local Government Commission, shall cause to be prepared and promulgated a standard budget format for use by local school administrative units throughout the State.
(b) The uniform budget format shall be organized so as to facilitate accomplishment of the following objectives: (i) to enable the board of education and the board of county commissioners to make the local educational and local fiscal policies embodied therein; (ii) to control and facilitate the fiscal management of the local school administrative unit during the fiscal year; and (iii) to facilitate the gathering of accurate and reliable fiscal data on the operation of the public school system throughout the State.

(c) The uniform budget format shall require the following funds:

(1) The State Public School Fund.

(2) The local current expense fund.

(3) The capital outlay fund.

In addition, other funds may be required to account for trust funds, federal grants restricted as to use, and special programs. Each local school administrative unit shall maintain those funds shown in the uniform budget format that are applicable to its operations.

(d) The State Public School Fund shall include appropriations for the current operating expenses of the public school system from moneys made available to the local school administrative unit by the State Board of Education.

(e) The local current expense fund shall include appropriations sufficient, when added to appropriations from the State Public School Fund, for the current operating expense of the public school system in conformity with the educational goals and policies of the State and the local board of education, within the financial resources and consistent with the fiscal policies of the board of county commissioners. These appropriations shall be funded by revenues accruing to the local school administrative unit by virtue of Article IX, Sec. 7 of the Constitution, moneys made available to the local school administrative unit by the board of county commissioners, supplemental taxes levied by or on behalf of the local school administrative unit pursuant to a local act or G.S. 115C-501 to G.S. 115C-511, State money disbursed directly to the local school administrative unit, and other moneys made available or accruing to the local school administrative unit for the current operating expenses of the public school system.

(i) The capital outlay fund shall include appropriations for:

(1) The acquisition of real property for school purposes, including but not limited to school sites, playgrounds, athletic fields, administrative headquarters, and garages.

(2) The acquisition, construction, reconstruction, enlargement, renovation, or replacement of buildings and other structures, including but not limited to buildings for classrooms and laboratories, physical and vocational educational purposes, libraries, auditoriums, gymnasiums, administrative offices, storage, and vehicle maintenance.

(3) The acquisition or replacement of furniture and furnishings, instructional apparatus, data-processing equipment, business machines, and similar items of furnishings and equipment.

(4) The acquisition of school buses as additions to the fleet.

(5) The acquisition of activity buses and other motor vehicles.

(6) Such other objects of expenditure as may be assigned to the capital outlay fund by the uniform budget format.

The cost of acquiring or constructing a new building, or reconstructing, enlarging, or renovating an existing building, shall include the cost of all real
property and interests in real property, and all plants, works, appurtenances, structures, facilities, furnishings, machinery, and equipment necessary or useful in connection therewith; financing charges; the cost of plans, specifications, studies, reports, and surveys; legal expenses; and all other costs necessary or incidental to the construction, reconstruction, enlargement, or renovation.

No contract for the purchase of a site shall be executed nor any funds expended therefor without the approval of the board of county commissioners as to the amount to be spent for the site; and in case of a disagreement between a board of education and a board of county commissioners as to the amount to be spent for the site, the procedure provided in G.S. 115C-431 shall, insofar as the same may be applicable, be used to settle the disagreement.

Appropriations in the capital outlay fund shall be funded by revenues made available for capital outlay purposes by the State Board of Education and the board of county commissioners, supplemental taxes levied by or on behalf of the local school administrative unit pursuant to a local act or G.S. 115C-501 to G.S. 115C-511, the proceeds of the sale of capital assets, the proceeds of claims against fire and casualty insurance policies, and other sources.

(g) Other funds shall include appropriations for such purposes funded from such sources as may be prescribed by the uniform budget format.

"§ 115C-427. Preparation and submission of budget and budget message.—(a) Before the close of each fiscal year, the superintendent shall prepare a budget for the ensuing year for consideration by the board of education. The budget shall comply in all respects with the limitations imposed by G.S. 115C-432.

(b) The budget, together with a budget message, shall be submitted to the board of education not later than May 1. The budget and budget message should, but need not, be submitted at a formal meeting of the board. The budget message should contain a concise explanation of the educational goals fixed by the budget for the budget year, should set forth the reasons for stated changes from the previous year in program goals, programs, and appropriation levels, and should explain any major changes in educational or fiscal policy.

"§ 115C-428. Filing and publication of the budget; budget hearing.—(a) On the same day that he submits the budget to the board of education, the superintendent shall file a copy of it in his office where it shall remain available for public inspection until the budget resolution is adopted. He may also publish a statement in a newspaper qualified under G.S. 1-597 to publish legal advertisements in the county that the budget has been submitted to the board of education, and is available for public inspection in the office of the superintendent of schools. The statement should also give notice of the time and place of the budget hearing authorized by subsection (b) of this section.

(b) Before submitting the budget to the board of county commissioners, the board of education may hold a public hearing at which time any persons who wish to be heard on the school budget may appear.

"§ 115C-429. Approval of budget; submission to county commissioners; commissioners' action on budget.—(a) Upon receiving the budget from the superintendent and following the public hearing authorized by G.S. 115C-428(b), if one is held, the board of education shall consider the budget, make such changes therein as it deems advisable, and submit the entire budget as approved by the board of education to the board of county commissioners not later than May 15, or such later date as may be fixed by the board of county commissioners.
(b) The board of county commissioners shall complete its action on the school budget on or before July 1, or such later date as may be agreeable to the board of education. The commissioners shall determine the amount of county revenues to be appropriated in the county budget ordinance to the local school administrative unit for the budget year. The board of county commissioners may, in its discretion, allocate part or all of its appropriation by purpose, function, or project as defined in the uniform budget format.

(c) The board of county commissioners shall have full authority to call for, and the board of education shall have the duty to make available to the board of county commissioners, upon request, all books, records, audit reports, and other information bearing on the financial operation of the local school administrative unit.

(d) Nothing in this Article shall be construed to place a duty on the board of commissioners to fund a deficit incurred by a local school administrative unit through failure of the unit to comply with the provisions of this Article or rules and regulations issued pursuant hereto, or to provide moneys lost through misapplication of moneys by a bonded officer, employee or agent of the local school administrative unit when the amount of the fidelity bond required by the board of education was manifestly insufficient.

"§ 115C-430. Apportionment of county appropriations among local school administrative units.—If there is more than one local school administrative unit in a county, all appropriations by the county to the local current expense funds of the units, except appropriations funded by supplemental taxes levied less than countywide pursuant to a local act or G.S. 115C-501 to G.S. 115C-511, must be apportioned according to the membership of each unit. County appropriations are properly apportioned when the dollar amount obtained by dividing the amount so appropriated to each unit by the total membership of the unit is the same for each unit. The total membership of the local school administrative unit is the unit’s projected average daily membership for the budget year to be determined by and certified to the unit and the board of county commissioners by the State Board of Education.

"§ 115C-431. Procedure for resolution of dispute between board of education and board of county commissioners.—(a) If the board of education determines that the amount of money appropriated to the local current expense fund, or the capital outlay fund, or both, by the board of county commissioners is not sufficient to support a system of free public schools, the chairman of the board of education and the chairman of the board of county commissioners shall arrange a joint meeting of the two boards to be held within seven days after the day of the county commissioners’ decision on the school appropriations. At the joint meeting, the entire school budget shall be considered carefully and judiciously, and the two boards shall make a good-faith attempt to resolve the differences that have arisen between them.

(b) If no agreement is reached at the joint meeting of the two boards, either board may refer the dispute to the clerk of superior court for arbitration within three days after the day of the joint meeting. The clerk shall render his decision on the matters in disagreement within 10 days after the day of the referral. The clerk of the superior court shall have the authority to subpoena or issue any orders necessary to have appear before him any member of a board of education and any member of a board of commissioners involved in the dispute and to
require that the records of either board be presented to him for the purpose of
arbitration of the issues.

(c) Within 10 days after the date of award, either board may appeal the
erk's award to the superior court division of the General Court of Justice. The
court shall find the facts as to the amount of money necessary to maintain a
system of free public schools, and the amount of money needed from the county
to make up this total. Either board has the right to have the issues of fact tried
by a jury. When a jury trial is demanded, the cause shall be set for the first
succeeding term of the superior court in the county, and shall take precedence
over all other business of the court. However, if the judge presiding certifies to
the Chief Justice of the Supreme Court, either before or during the term, that
because of the accumulation of other business, the public interest will be best
served by not trying the cause at the term next succeeding the appeal, the Chief
Justice shall immediately call a special term of the superior court for the
county, to convene as soon as possible, and assign a judge of the superior court or
an emergency judge to hold the court, and the cause shall be tried at this special
term. The issue submitted to the jury shall be what amount of money is needed
from sources under the control of the board of county commissioners to
maintain a system of free public schools.

All findings of fact in the superior court, whether found by the judge or a
jury, shall be conclusive. When the facts have been found, the court shall give
judgment ordering the board of county commissioners to appropriate a sum
certain to the local school administrative unit, and to levy such taxes on
property as may be necessary to make up this sum when added to other
revenues available for the purpose.

(d) If an appeal is taken to the appellate division of the General Court of
Justice, and if such an appeal would result in a delay beyond a reasonable time
for levying taxes for the year, the judge shall order the board of county
commissioners to appropriate to the local school administrative unit for deposit
in the local current expense fund a sum of money sufficient when added to all
other moneys available to that fund to equal the amount of this fund for the
previous year. All papers and records relating to the case shall be considered a
part of the record on appeal.

(e) If, in an appeal taken pursuant to this section, the final judgment of the
General Court of Justice is rendered after the due date prescribed by law for
property taxes, the board of county commissioners is authorized to levy such
supplementary taxes as may be required by the judgment, notwithstanding any
other provisions of law with respect to the time for doing acts necessary to a
property tax levy. Upon making a supplementary levy under this subsection,
the board of county commissioners shall designate the person who is to compute
and prepare the supplementary tax receipts and records for all such taxes. Upon
delivering the supplementary tax receipts to the tax collector, the board of
county commissioners shall proceed as provided in G.S. 105-321.

The due date of supplementary taxes levied under this subsection is the date
of the levy, and the taxes may be paid at par or face amount at any time before
the one hundred and twentieth day after the due date. On or after the one
hundred and twentieth day and before the one hundred and fiftieth day from
the due date there shall be added to the taxes interest at the rate of two percent
(2%). On or after the one hundred and fiftieth day from the due date, there shall
be added to the taxes, in addition to the two percent (2%) provided above,
interest at the rate of three-fourths of one percent (3/4 of 1%) per 30 days or fraction thereof until the taxes plus interest have been paid. No discounts for prepayment of supplementary taxes levied under this subsection shall be allowed.

"§ 115C-432. The budget resolution; adoption; limitations; tax levy; filing.—
(a) After the board of county commissioners has made its appropriations to the local school administrative unit, or after the appeal procedure set out in G.S. 115C-431 has been concluded, the board of education shall adopt a budget resolution making appropriations for the budget year in such sums as the board may deem sufficient and proper. The budget resolution shall conform to the uniform budget format established by the State Board of Education.

(b) The following directions and limitations shall bind the board of education in adopting the budget resolution:

(1) If the county budget ordinance allocates appropriations to the local school administrative unit pursuant to G.S. 115C-429(b), the school budget resolution shall conform to that allocation. The budget resolution may be amended to change allocated appropriations only in accordance with G.S. 115C-433.

(2) Subject to the provisions of G.S. 115C-429(d), the full amount of any lawful deficit from the prior fiscal year shall be appropriated.

(3) Contingency appropriations in a fund may not exceed five percent (5%) of the total of all other appropriations in that fund. Each expenditure to be charged against a contingency appropriation shall be authorized by resolution of the board of education, which resolution shall be deemed an amendment to the budget resolution, not subject to G.S. 115C-429(b) and G.S. 115C-433(b), setting up or increasing an appropriation for the object of expenditure authorized. The board of education may authorize the superintendent to authorize expenditures from contingency appropriations subject to such limitations and procedures as it may prescribe. Any such expenditure shall be reported to the board of education at its next regular meeting and recorded in the minutes.

(4) Sufficient funds to meet the amounts to be paid during the fiscal year under continuing contracts previously entered into shall be appropriated.

(5) The sum of estimated net revenues and appropriated fund balances in each fund shall be equal to appropriations in that fund.

(6) No appropriation may be made that would require the levy of supplemental taxes pursuant to a local act or G.S. 115C-501 to G.S. 115C-511 in excess of the rate of tax approved by the voters, or the expenditure of revenues for purposes not permitted by law.

(7) In estimating revenues to be realized from the levy of school supplemental taxes pursuant to a local act or G.S. 115C-501 to G.S. 115C-511, the estimated percentage of collection may not exceed the percentage of that tax actually realized in cash during the preceding fiscal year, or if the tax was not levied in the preceding fiscal year, the percentage of the general county tax levy actually realized in cash during the preceding fiscal year.

(8) Amounts to be realized from collection of supplemental taxes levied in prior fiscal years shall be included in estimated revenues.
(9) No appropriation may be made to or from the capital outlay fund to or from any other fund, except as permitted by G.S. 115C-433(d).

(c) If the local school administrative unit levies its own supplemental taxes pursuant to a local act, the budget resolution shall make the appropriate tax levy in accordance with the local act, and the board of education shall notify the county or city that collects the levy in accordance with G.S. 159-14.

(d) The budget resolution shall be entered in the minutes of the board of education, and within five days after adoption, copies thereof shall be filed with the superintendent, the school finance officer and the county finance officer. The board of education shall file a copy of the budget as approved and a copy of the budget resolution with the Controller of the State Board of Education.

"§ 115C-433. Amendments to the budget resolution; budget transfers.—(a) Subject to the provisions of subsection (b) of this section, the board of education may amend the budget resolution at any time after its adoption, in any manner, so long as the resolution as amended continues to satisfy the requirements of G.S. 115C-425 and G.S. 115C-432.

(b) If the board of county commissioners allocates part or all of its appropriations pursuant to G.S. 115C-429(b), the board of education must obtain the approval of the board of county commissioners for an amendment to the budget that (i) increases or decreases expenditures from the capital outlay fund for projects listed in G.S. 115C-426(f)(1) or (2), or (ii) increases or decreases the amount of county appropriation allocated to a purpose or function by twenty-five percent (25%) or more from the amount contained in the budget ordinance adopted by the board of county commissioners: Provided, that at its discretion, the board may in its budget ordinance specify a lesser percentage, so long as such percentage is not less than ten percent (10%).

(c) The board of education may by appropriate resolution authorize the superintendent to transfer moneys from one appropriation to another within the same fund, subject to such limitations and procedures as may be prescribed by the board of education or State or federal law or regulations. Any such transfers shall be reported to the board of education at its next regular meeting and shall be entered in the minutes.

(d) The board of education may amend the budget to transfer money to or from the capital outlay fund to or from any other fund, with the approval of the board of county commissioners, to meet emergencies unforeseen and unforeseeable at the time the budget resolution was adopted. When such an emergency arises, the board of education may adopt a resolution requesting approval from the board of commissioners for the transfer of a specified amount of money to or from the capital outlay fund to or from some other fund. The resolution shall state the nature of the emergency, why the emergency was not foreseen and was not foreseeable when the budget resolution was adopted, what specific objects of expenditure will be added or increased as a result of the transfer, and what objects of expenditure will be eliminated or reduced as a result of the transfer. A certified copy of this resolution shall be transmitted to the board of county commissioners for (its) approval and to the boards of education of all other local school administrative units in the county for their information. The board of commissioners shall act upon the request within 30 days after it is received by the clerk to the board of commissioners or the chairman of the board of commissioners, after having afforded the boards of education of all other local school administrative units in the county an
opportunity to comment on the request. The board of commissioners may either approve or disapprove the request as presented. Upon either approving or disapproving the request, the board of commissioners shall forthwith so notify the board of education making the request and any other board of education that exercised its right to comment thereon. Upon receiving such notification, the board of education may proceed to amend the budget resolution in the manner indicated in the request. Failure of the board of county commissioners to act within the time allowed for approval or disapproval shall be deemed approval of the request. The time limit for action by the board of county commissioners may be extended by mutual agreement of the board of county commissioners and the board of education making the request. A budget resolution amended in accordance with this subsection need not comply with G.S. 115C-430.

"§ 115C-434. Interim budget.—In case the adoption of the budget resolution is delayed until after July 1, the board of education shall make interim appropriations for the purpose of paying salaries and the usual ordinary expenses of the local school administrative unit for the interval between the beginning of the fiscal year and the adoption of the budget resolution. Interim appropriations so made and expended shall be charged to the proper appropriations in the budget resolution.

"Part 3. Fiscal Control.

"§ 115C-435. School finance officer.—Each local school administrative unit shall have a school finance officer who shall be appointed or designated by the superintendent of schools and approved by the board of education, with the school finance officer serving at the pleasure of the superintendent. The duties of school finance officer may be conferred on any officer or employee of the local school administrative unit or, upon request of the superintendent, with approval by the board of education and the board of county commissioners, on the county finance officer. In counties where there is more than one local school administrative unit, the duties of finance officer may be conferred on any one officer or employee of the several local school administrative units by agreement between the affected superintendents with the concurrence of the affected board of education and the board of county commissioners. The position of school finance officer is hereby declared to be an office that may be held concurrently with other appointive, but not elective, offices pursuant to Article VI, Sec. 9, of the Constitution.

"§ 115C-436. Duties of school finance officer.—(a) the school finance officer shall be responsible to the superintendent for:

(1) Keeping the accounts of the local school administrative unit in accordance with generally accepted principles of governmental accounting, the rules and regulations of the State Board of Education, and the rules and regulations of the Local Government Commission.

(2) Giving the preaudit certificate required by G.S. 115C-441.

(3) Signing and issuing all checks, drafts, and State warrants by the local school administrative unit, investing idle cash, and receiving and depositing all moneys accruing to the local school administrative unit.

(4) Preparing and filing a statement of the financial condition of the local school administrative unit as often as requested by the superintendent, and when requested in writing, with copy to the superintendent, by the board of education or the board of county commissioners.
Performing such other duties as may be assigned to him by law, by the superintendent, or by rules and regulations of the State Board of Education and the Local Government Commission.

All references in other portions of the General Statutes or local acts to school treasurers, county treasurers, or other officials performing any of the duties conferred by this section on the school finance officer shall be deemed to refer to the school finance officer.

(b) The State Board of Education has authority to issue rules and regulations having the force of law governing procedures for the disbursement of money allocated to the local school administrative unit by or through the State. The Local Government Commission has authority to issue rules and regulations having the force of law governing procedures for the disbursement of all other moneys allocated or accruing to the local school administrative unit. The State Board of Education and the Local Government Commission may inquire into and investigate the internal control procedures of a local school administrative unit with respect to moneys under their respective jurisdictions, and may require any modifications in internal control procedures which may be necessary or desirable to prevent embezzlements or mishandling of public moneys.

§ 115C-437. Allocation of revenues to the local school administrative unit by the county.—Revenues accruing to the local school administrative unit by virtue of Article IX, Sec. 7, of the Constitution and taxes levied by or on behalf of the local school administrative unit pursuant to a local act or G.S. 115C-501 to G.S. 115C-511 shall be remitted to the school finance officer by the officer having custody thereof within 10 days after the close of the calendar month in which the revenues were received or collected. Revenues appropriated to the local school administrative unit by the board of county commissioners from general county revenues shall be made available to the school finance officer by such procedures as may be mutually agreeable to the board of education and the board of county commissioners, but if no such agreement is reached, these funds shall be remitted to the school finance officer by the county finance officer in monthly installments sufficient to meet its lawful expenditures from the county appropriation until the county appropriation to the local school administrative unit is exhausted. Each installment shall be paid not later than 10 days after the close of each calendar month. When revenue has been appropriated to the local school administrative unit by the board of county commissioners from funds which carry specific restrictions binding upon the county as recipient, the board of commissioners must inform the local school administrative unit in writing of those restrictions.

§ 115C-438. Provision for disbursement of State money.—The deposit of money in the State treasury to the credit of local school administrative units shall be made in monthly installments, and additionally as necessary, at such time and in such a manner as may be most convenient for the operation of the public school system. Before an installment is credited, the school finance officer shall certify to the Controller of the State Board of Education the expenditures to be made by the local school administrative unit from the State Public School Fund during the month. This certification shall be filed on or before the fifth day following the end of the month preceding the period in which the expenditures will be made. The Controller shall determine whether the moneys requisitioned are due the local school administrative unit, and upon
determining the amount due, shall cause the requisite amount to be credited to
the local school administrative unit. Upon receiving notice from the State
Treasurer of the amount placed to the credit of the local school administrative
unit, the finance officer may issue State warrants up to the amount so certified.

The Controller may withhold money for payment of salaries for
administrative officers of local school administrative units if any report
required to be filed with State school authorities is more than 30 days overdue.

Money in the State Public School Fund and State bond moneys shall be
released only on warrants drawn on the State Treasurer, signed by such local
official as may be required by the Controller of the State Board of Education.

“§115C-439. Facsimile signatures.—The board of education may provide by
appropriate resolution for the use of facsimile signature machines, signature
stamps, or similar devices in signing checks and drafts and in signing the
preaudit certificate on contracts or purchase orders. The board shall charge the
finance officer or some other bonded officer or employee with the custody of
the necessary machines, stamps, plates, or other devices, and that person and
the sureties on his official bond are liable for any illegal, improper, or
unauthorized use of them.

“§115C-440. Accounting system.—(a) System Required.—Each local school
administrative unit shall establish and maintain an accounting system designed
to show in detail its assets, liabilities, equities, revenues, and expenditures. The
system shall also be designed to show appropriations and estimated revenues as
established in the budget resolution as originally adopted and subsequently
amended.

(b) Basis of Accounting.—Local school administrative units shall use the
modified accrual basis of accounting in recording transactions.

(c) Encumbrance Systems.—Except as otherwise provided in this subsection,
no local school administrative unit is required to record or show encumbrances
in its accounting system. The Local Government Commission, in consultation
with the State Board of Education, shall establish regulations, based on total
membership of the local school administrative unit or some other appropriate
criterion, setting forth which units are required to maintain an accounting
system that records and shows the encumbrances outstanding against each
category of expenditure appropriated in the budget resolution. Any other local
school administrative unit may record and show encumbrances in its accounting
system.

(d) Commission Regulations.—The Local Government Commission, in
consultation with the State Board of Education, may prescribe rules and
regulations having the force of law as to:

(1) Features of accounting systems to be maintained by local school
administrative units.

(2) Bases of accounting, including identifying in detail the characteristics
of a modified accrual basis and identifying what revenues are
susceptible to accrual.

(3) Definitions of terms not clearly defined in this Article.

These rules and regulations may be varied according to the size of the local
school administrative unit, or according to any other criteria reasonably related
to the purpose or complexity of the financial operations involved.

“§115C-441. Budgetary accounting for appropriations.—(a) Incurring
Obligations.—No obligation may be incurred by a local school administrative

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unit unless the budget resolution includes an appropriation authorizing the obligation and an unencumbered balance remains in the appropriation sufficient to pay in the current fiscal year the sums obligated by the transaction for the current fiscal year. If an obligation is evidenced by a contract or agreement requiring the payment of money or by a purchase order for supplies and materials, the contract, agreement, or purchase order shall include on its face a certificate stating that the instrument has been preaudited to assure compliance with this subsection. The certificate, which shall be signed by the finance officer, shall take substantially the following form:

'This instrument has been preaudited in the manner required by the School Budget and Fiscal Control Act.

______________________________________________
(Date)

(Signature of finance officer)

An obligation incurred in violation of this subsection is invalid and may not be enforced. The finance officer shall establish procedures to assure compliance with this subsection.

(b) Disbursements.—When a bill, invoice, or other claim against a local school administrative unit is presented, the finance officer shall either approve or disapprove the necessary disbursement. The finance officer may approve the claim only if he determines the amount to be payable, the budget resolution includes an appropriation authorizing the expenditure and either (i) an encumbrance has been previously created for the transaction or (ii) an unencumbered balance remains in the appropriation sufficient to pay the amount to be disbursed. A bill, invoice, or other claim may not be paid unless it has been approved by the finance officer or, under subsection (c) of this section, by the board of education.

(c) Board of Education Approval of Bills, Invoices, or Claims.—The board of education may, as permitted by this subsection, approve a bill, invoice, or other claim against the local school administrative unit that has been disapproved by the finance officer. It may not approve a claim for which no appropriation appears in the budget resolution, or for which the appropriation contains no encumbrance and the unencumbered balance is less than the amount to be paid. The board of education shall approve payment by formal resolution stating the board's reasons for allowing the bill, invoice, or other claim. The resolution shall be entered in the minutes together with the names of those voting in the affirmative. The chairman of the board or some other member designated for this purpose shall sign the certificate on the check or draft given in payment of the bill, invoice, or other claim. If payment results in a violation of law, each member of the board voting to allow payment is jointly and severally liable for the full amount of the check or draft given in payment.

(d) Payment.—A local school administrative unit may not pay a bill, invoice, salary, or other claim except by a check or draft on an official depository, by a bank wire transfer from an official depository, or by a warrant on the State Treasurer. Except as provided in this subsection each check or draft on an official depository shall bear on its face a certificate signed by the finance officer or signed by the chairman or some other member of the board pursuant to subsection (c) of this section. The certificate shall take substantially the following form:
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"This disbursement has been approved as required by the School Budget and Fiscal Control Act.

(Signature of finance officer)"

No certificate is required on payroll checks or drafts or on State warrants.

(e) Penalties.—If an officer or employee of a local school administrative unit incurs an obligation or pays out or causes to be paid out any funds in violation of this section, he and the sureties on his official bond are liable for any sums so committed or disbursed. If the finance officer gives a false certificate to any contract, agreement, purchase order, check, draft, or other document, he and the sureties on his official bond are liable for any sums illegally committed or disbursed thereby.

"§ 115C-442. Fidelity bonds.—(a) The finance officer shall give a true accounting and faithful performance bond with sufficient sureties in an amount to be fixed by the board of education, not less than ten thousand dollars ($10,000) nor more than two hundred fifty thousand dollars ($250,000). This bond shall cover the faithful performance of all duties placed on the finance officer by or pursuant to law and the faithful accounting for all funds in his custody except State funds placed to the credit of the local school administrative unit by the State Treasurer. The premium on the bond shall be paid by the local school administrative unit.

(b) The State Board of Education shall provide for adequate and appropriate bonding of school finance officers and such other employees as it deems appropriate with respect to the disbursement of State funds. When it requires such bonds, the State Board of Education is authorized to place the bonds and pay the premiums thereon.

(c) The treasurer of each individual school and all other officers, employees and agents of each local school administrative unit who have custody of public school money in the normal course of their employment or agency shall give a true accounting bond with sufficient sureties in an amount to be fixed by the board of education. The premiums on these bonds shall be paid by the local school administrative unit. Instead of individual bonds, a local school administrative unit may provide for a blanket bond to cover all officers, employees, and agents of the local school administrative unit required to be bonded, except the finance officer. The finance officer may be included within the blanket bond if the blanket bond protects against risks not protected against by the individual bond.

"§ 115C-443. Investment of idle cash.—(a) A local school administrative unit may deposit at interest or invest all or part of the cash balance of any fund. The finance officer shall manage investments subject to whatever restrictions and directions the board of education may impose. The finance officer shall have the power to purchase, sell, and exchange securities on behalf of the board of education. The investment program shall be so managed that investments and deposits can be converted into cash when needed.

(b) Moneys may be deposited at interest in any bank or trust company in this State in the form of certificates of deposit or such other forms of time deposit as the Local Government Commission may approve. Investment deposits shall be secured as provided in G.S. 115C-444(b).

(c) Moneys may be invested in the following classes of securities, and no others:

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(1) Obligations of the United States of America.
(2) Obligations of any agency or instrumentality of the United States of
America if the payment of interest and principal of such obligations is
fully guaranteed by the United States of America.
(3) Obligations of the State of North Carolina.
(4) Bonds and notes of any North Carolina local government or public
authority, subject to such restrictions as the Secretary of the Local
Government Commission may impose.
(5) Shares of any savings and loan association organized under the laws of
this State and shares of any federal savings and loan association having
its principal office in this State, to the extent that the investment in
such shares is fully insured by the United States of America or an
agency thereof or by any mutual deposit guaranty association
authorized by the Commissioner of Insurance of North Carolina to do
business in North Carolina pursuant to Article 7A of Chapter 54 of the
General Statutes.
(6) Obligations maturing no later than 18 months after the date of
purchase of the Federal Intermediate Credit Banks, the Federal Home
Loan Banks, the Federal National Mortgage Association, the Banks for
Cooperatives, and the Federal Land Banks.
(7) Any form of investment allowed by law to the State Treasurer.
(8) Any form of investment allowed by G.S. 159-30 to local governments
and public authorities.
(d) Investment securities may be bought, sold, and traded by private
negotiation, and local school administrative units may pay all incidental costs
thereof and all reasonable cost of administering the investment and deposit
program. Securities and deposit certificates shall be in the custody of the
finance officer who shall be responsible for their safekeeping and for keeping
accurate investment accounts and records.
(e) Interest earned on deposits and investments shall be credited to the fund
whose cash is deposited or invested. Cash of several funds may be combined for
deposit or investment if not otherwise prohibited by law; and when such joint
deposits or investments are made, interest earned shall be prorated and credited
to the various funds on the basis of the amounts thereof invested, figured
according to an average periodic balance or some other sound accounting
principle. Interest earned on the deposit or investment of bond funds shall be
deemed a part of the bond proceeds.
(f) Registered securities acquired for investment may be released from
registration and transferred by signature of the finance officer.
(g) It is the intent of this Article that the foregoing provisions of this section
shall apply only to those funds received by the local school administrative unit
as required by G.S. 115C-437. The county finance officer shall be responsible for
the investment of all county funds allocated to the local school administrative
unit prior to such county funds actually being remitted to the school finance
officer as provided by G.S. 115C-437.
§ 115C-444. Selection of depository; deposits to be secured.—(a) Each board
of education shall designate as the official depositories of the local school
administrative unit one or more banks or trust companies in this State. It shall
be unlawful for any money belonging to a local school administrative unit or an
individual school to be deposited in any place, bank, or trust company other than an official depository, except as permitted by G.S. 115C-443(b).

(b) Money on deposit in an official depository or deposited at interest pursuant to G.S. 115C-443(b) shall be fully secured by deposit insurance, surety bonds, or investment securities of such nature, in such amounts, and in such manner, as may be prescribed by rule or regulation of the Local Government Commission. When deposits are secured in accordance with this subsection, no public officer or employee may be held liable for any losses sustained by a local school administrative unit because of the default or insolvency of the depository.

"§115C-445. Daily deposits.—Except as otherwise provided by law, all moneys collected or received by an officer, employee or agent of a local school administrative unit or an individual school shall be deposited in accordance with this section. Each officer, employee and agent of a local school administrative unit or individual school whose duty it is to collect or receive any taxes or other moneys shall deposit his collections and receipts daily. If the board of education gives its approval, deposits shall be required only when the moneys on hand amount to as much as two hundred fifty dollars ($250.00), but in any event a deposit shall be made on the last business day of the month. All deposits shall be made with the finance officer or in an official depository. Deposits in an official depository shall be immediately reported to the finance officer or individual school treasurer by means of a duplicate deposit ticket. The finance officer may at any time audit the accounts of any officer, employee or agent collecting or receiving any taxes or other moneys, and may prescribe the form and detail of these accounts. The accounts of such an officer, employee or agent shall be audited at least annually.

"§115C-446. Semiannual reports on status of deposits and investments.—Each school finance officer shall report to the Secretary of the Local Government Commission on January 1 and July 1 of each year, or such other dates as the Secretary may prescribe, the amounts of money then in his custody and in the custody of treasurers of individual schools within the local school administrative unit, the amount of deposits of such money in depositories, a list of all investment securities and time deposits held by the local school administrative unit and individual schools therein, and a description of the surety bonds or investment securities securing demand and time deposits. If the Secretary finds at any time that any moneys of a local school administrative unit or an individual school are not properly deposited or secured, or are invested in securities not eligible for investment, he shall notify the officer in charge of the moneys of the failure to comply with law. Upon such notification, the officer shall comply with the law within 30 days, except as to the sale of securities not eligible for investment which shall be sold within nine months at a price to be approved by the Secretary. The Local Government Commission may extend the time for sale of ineligible securities, but no one extension may cover a period of more than one year.

"§115C-447. Annual independent audit.—Each local school administrative unit shall have its accounts and the accounts of individual schools therein audited as soon as possible after the close of each fiscal year by a certified public accountant or by an accountant certified by the Local Government Commission as qualified to audit local government accounts. The auditor who audits the accounts of a local school administrative unit shall also audit the accounts of its
individual schools. The auditor shall be selected by and shall report directly to the board of education. The audit contract shall be in writing, shall include all its terms and conditions, and shall be submitted to the Secretary of the Local Government Commission for his approval as to form, terms and conditions. The terms and conditions of the audit contract shall include the scope of the audit, and the requirement that upon completion of the examination the auditor shall prepare a typewritten or printed report embodying financial statements and his opinion and comments relating thereto. The financial statements accompanying the auditor's report shall be prepared in conformity with generally accepted accounting principles. The auditor shall file a copy of the audit report with the Secretary of the Local Government Commission, the Controller of the State Board of Education, the board of education and the board of county commissioners, and shall submit all bills or claims for audit fees and costs to the Secretary of the Local Government Commission for his approval. It shall be unlawful for any local school administrative unit to pay or permit the payment of such bills or claims without this approval. Each officer, employee and agent of the local school administrative unit having custody of public money or responsibility for keeping records of public financial or fiscal affairs shall produce all books and records requested by the auditor and shall divulge such information relating to fiscal affairs as he may request. If any member of a board of education or any other public officer, employee or agent shall conceal, falsify, or refuse to deliver or divulge any books, records, or information, with an intent thereby to mislead the auditor or impede or interfere with the audit, he is guilty of a misdemeanor and upon conviction thereof may be fined not more than one thousand dollars ($1,000), or imprisoned for not more than one year, or both, in the discretion of the court.

The State Auditor, in consultation with the State Board of Education, shall have authority to prescribe the manner in which funds disbursed by administrative units by warrants on the State Treasurer shall be audited.

"§ 115C-448. Special funds of individual schools.—(a) The board of education shall appoint a treasurer for each school within the local school administrative unit that handles special funds. The treasurer shall keep a complete record of all moneys in his charge in such form and detail as may be prescribed by the finance officer of the local school administrative unit, and shall make such reports to the superintendent and finance officer of the local school administrative unit as they or the board of education may prescribe. Special funds of individual schools shall be deposited in an official depository of the local school administrative unit in special accounts to the credit of the individual school, and shall be paid only on checks or drafts signed by the principal of the school and the treasurer. The board of education may, in its discretion, waive the requirements of this section for any school which handles less than three hundred dollars ($300.00) in any school year.

(b) Nothing in this section shall prevent the board of education from requiring that all funds of individual schools be deposited with and accounted for by the school finance officer. If this is done, these moneys shall be disbursed and accounted for in the same manner as other school funds except that the check or draft shall not bear the certificate of preaudit.

(c) For the purposes of this section, 'special funds of individual schools' includes by way of illustration and not limitation funds realized from gate
receipts of interscholastic athletic competition, sale of school annuals and newspapers, and dues of student organizations.

"§115C-449. Proceeds of insurance claims.—Moneys paid to a local school administrative unit pursuant to contracts of insurance against loss of capital assets through fire or casualty shall be used to repair or replace the damaged asset, or if the asset is not repaired or replaced, placed to the credit of the capital outlay fund for appropriation at some future time.

"§115C-450. School food services.—School food services shall be included in the budget of each local school administrative unit and the State Board of Education shall provide for school food services in the uniform budget format required by G.S. 115C-426.

"§115C-451. Reports to State Board of Education.—The State Board of Education shall have authority to require local school administrative units to make such reports as it may deem advisable with respect to the financial operation of the public schools.

"§115C-452. Fines and forfeitures.—The clear proceeds of all penalties and forfeitures and of all fines collected in the General Court of Justice in each county shall be remitted by the clerk of the superior court to the county finance officer, who shall forthwith determine what portion of the total is due to each local school administrative unit in the county and remit the appropriate portion of the amount to the finance officer of each local school administrative unit. Fines and forfeitures shall be apportioned according to the projected average daily membership of each local school administrative unit as determined by and certified to the local school administrative units and the board of county commissioners by the State Board of Education pursuant to G.S. 115C-430.

"§§ 115C-453 to 115C-457: Reserved for future codification purposes.

"ARTICLE 32.

"Loans from State Literary Fund.

"§115C-458. Loans by State Board from State Literary Fund.—The State Literary Fund includes all funds derived from the sources enumerated in Sec. 6, Article IX, of the Constitution, and all funds that may be hereafter so derived, together with any interest that may accrue thereon. This Fund shall be separate and distinct from other funds of the State.

The State Board of Education, under such rules and regulations as it may deem advisable, not inconsistent with the provisions of this Article, may make loans from the State Literary Fund to the counties for the use of local boards of education under such rules and regulations as it may adopt and according to law for the purpose of aiding in the erection and equipment of school plants, maintenance buildings and transportation garages. No warrant for the expenditure of money for such purposes shall be issued except upon the order of the Superintendent of Public Instruction with the approval of the State Board of Education.

"§115C-459. Terms of loans.—Loans made under the provisions of this Article shall be payable in 10 installments, shall bear interest at a uniform rate determined by the State Board of Education not to exceed six percent (6%), payable annually, and shall be evidenced by the note of the county, executed by the chairman, the clerk of the board of county commissioners, and the chairman and secretary of the local board of education, and deposited with the State Treasurer. The first installment of such loan, together with the interest
on the whole amount then due, shall be paid by the local board on the tenth day of February after the tenth day of August subsequent to the making of such loan, and the remaining installments, together with the interest, shall be paid on the tenth day of February of each subsequent year until all shall have been paid.

"§ 115C-460. How secured and paid.—At the January meeting of the board of education, before any installment shall be due on the next tenth day of February, the local board of education shall set apart out of the school funds an amount sufficient to pay such installment and interest to be due, and shall issue its order upon the treasurer of the county or city school fund therefor, who, prior to the tenth day of February, shall pay over to the State Treasurer the amount then due. Upon failure of any local school administrative unit to pay any installment of principal or interest, or any part of either, when due, the State Treasurer, upon demand of the State Board of Education, shall bring action against the local board of education and board of county commissioners to compel the levy and collection of sufficient taxes to pay said installment of principal and accrued interest. The State Board of Education may accept payment of any or all of said notes and the interest accrued thereon before maturity.

"§ 115C-461. Loans by county board to school districts.—The county board of education, from any sum borrowed under the provisions of this Article, may make loans only to districts that shall have levied a local tax sufficient to repay the installments and interest on said loan for the purpose of building schoolhouses in the district, and the amount so loaned to any district shall be payable in 10 annual installments, with interest thereon at the same rate the county board of education is paying, payable annually. Any amount loaned under the provisions of this law shall be a lien upon the total local tax funds produced in the district. Whenever the local taxes may not be sufficient to pay the installments and the interest, the county board of education must supply the remainder out of the current expense fund, and shall make provision for the same when the county budget is made and presented to the commissioners.

All loans hereafter made to such districts shall be made upon the written petition of a majority of the committee of the district asking for the loan and authorizing the county board to deduct a sufficient amount from the local taxes to meet the indebtedness to the county board of education. Otherwise, the county board of education shall have no lien upon the local taxes for the repayment of this loan: Provided, this lien shall not lie against taxes collected or hereafter levied to pay interest and principal on bonds issued by or on behalf of the district.

"§ 115C-462. State Board of Education authorized to accept funding or refunding bonds of counties for loans; approval by Local Government Commission.—In any case where a loan has heretofore been made from the State Literary Fund or from any special building fund of the State to a county and such county has heretofore or shall hereafter authorize the issuance of bonds for the purpose of funding or refunding interest on or the principal of all or a part of the notes evidencing such loan, the State Board of Education is hereby authorized to accept funding or refunding bonds or notes of such county in payment of interest on or the principal of the notes evidencing such loan: Provided, however, that the issuance of such funding or refunding bonds shall have been approved by the Local Government Commission.
"§ 115C-463. Issuance of bonds as part of general refunding plan.—In any case where the funding or refunding of interest on or the principal of such notes shall constitute a part of a refunding plan or program of the county, and the terms of such funding or refunding shall be accepted by a sufficient number of the holders of the county’s obligation to put same into effect, the State Board of Education may authorize the acceptance of such funding or refunding bonds or notes upon the same terms and conditions, both as to principal and interest, as have been agreed upon by a sufficient number of the other holders of the county’s obligations to put same into effect.

"§ 115C-464. Validating certain funding and refunding notes of counties.—The notes of any county held by the State Board of Education which were heretofore issued in exchange for and for the purpose of refunding and retiring notes evidencing loans made from the State Literary Fund pursuant to Article 24 of Chapter 136 of the Public Laws of 1923, or from special building funds pursuant to either Chapter 147 of the Public Laws of 1921, or Article 25 of Chapter 136 of the Public Laws of 1923, or Chapter 201 of the Public Laws of 1925, or Chapter 199 of the Public Laws of 1927, are hereby declared to be valid existing indebtedness of said county incurred by said county for the maintenance of the school term as required by the Constitution of North Carolina, notwithstanding any lack of authority for the issuance of said notes or error or omission or irregularity in the acts done or proceedings taken to provide for their issuance, and said notes held by the State Board of Education are hereby authorized to be refunded with bonds issued pursuant to the County Finance Act, being Chapter 81 of the Public Laws of 1927, as amended.

"§ 115C-465. Special appropriation from fund.—The State Board of Education may annually set aside and use out of the funds accruing in interest to the State Literary Fund, a sum not exceeding seventeen thousand five hundred dollars ($17,500) to be used for giving directions in the preparation of proper plans for the erection of school buildings in providing inspection of such buildings as may be erected in whole, or in part, with money borrowed from said fund, and such other purposes as said Board may determine to secure the erection of a better type of school building and better administration of said fund.

"§ 115C-466. Loans not granted in accordance with G. S. 115C-458.—The State Board of Education, under such rules and regulations as it may adopt, may make loans from the State Literary Fund to any local board of education, when the State Board of Education finds as a fact that it is not practicable for a loan to be granted in accordance with the provisions of G.S. 115C-458, for the purpose of aiding in the erection and equipment of public school plants. Such a loan shall not constitute a credit obligation of the county. No warrant for the expenditure of money for a loan authorized under the provisions of this section shall be issued except upon the approval of the State Board of Education, and after a finding of fact by said Board that it is not practicable for a loan to be granted in accordance with the provisions of G.S. 115C-458, and that a dire emergency exists in the local school administrative unit applying for such loan. Loans made under the provisions of this section shall be made in accordance with the terms specified in G.S. 115C-459 and shall be evidenced by the note of the local board of education, executed by the chairman and the secretary of said board. The first installment of such loan, together with the interest then due, shall be paid by the local board of education on or before the tenth day of June.
in the fiscal year following the fiscal year in which the loan was made, and succeeding installments, together with accrued interest, shall be paid one each on or before the tenth day of June of each successive fiscal year until all amounts due on said loan shall have been paid. The provisions of G.S. 115C-460 shall not apply to loans made pursuant to the provisions of this section.

"§ 115C-467. Pledge of nontax revenues to repayment of loans from State Literary Fund.—Any local board of education obtaining a loan from the State Literary Fund under the provisions of G.S. 115C-466 may, with the approval of the board of county commissioners, pledge to the repayment of such loan any available nontax revenues, including but not limited to, fines, penalties, and forfeitures.

"§ 115C-468 to 115C-472: Reserved for future codification purposes.

"ARTICLE 33.

"Assumption of School District Indebtedness by Counties.

"§ 115C-473. Method of assumption; validation of proceedings.—The county board of education, with the approval of the board of commissioners, and when the assumption of such indebtedness is approved at an election as hereinafter provided, if such election is required by the Constitution, may include in the debt service fund in the school budget all outstanding indebtedness for school purposes of every city, town, school district, school taxing district, township, city administrative unit or other political subdivision in the county, hereinafter collectively called 'local districts', lawfully incurred in erecting and equipping school buildings necessary for the school term. The election on the question of assuming such indebtedness shall be called and held in accordance with the provisions of Chapter 159 of the General Statutes, known as 'The Local Government Finance Act', insofar as the same may be made applicable, and the returns of such election shall be canvassed and a statement of the result thereof prepared, filed and published as provided in the Local Government Finance Act. No right of action or defense founded upon the invalidity of the election shall be asserted, nor shall the validity of the election be open to question in any court upon any ground whatever, except in an action or proceeding commenced within 30 days after the publication of such statement of result. When such indebtedness is taken over for payment by the county as a whole and the local districts are relieved of their annual payments, the county funds provided for such purpose shall be deducted from the debt service fund prior to the division of such fund among the schools of the county as provided in Article 31 of this Chapter.

The assumption, as herein provided, by any county, at any time prior to the 28th day of February, 1951, of the indebtedness of local districts for school purposes and all proceedings had in connection therewith are hereby in all respects ratified, approved, confirmed, and validated: Provided, that nothing herein shall prevent counties and local taxing districts from levying taxes to provide for the payment of their debt service requirements if they have not been otherwise provided for.

"§ 115C-474. Taxes levied and collected for bonds assumed to be paid into school debt service fund of county; discharge of sinking fund custodian.—In any county where the bonds of a local district have been assumed under the provisions of this Article, all taxes levied and collected for the purpose of paying the principal of and interest on said bonds, or for creating a sinking fund for the retirement of said bonds, shall be deposited in the school debt service fund of
the county. The custodian of all moneys and other assets of a sinking fund created for the retirement of said bonds is hereby authorized to turn over such moneys and assets to the county treasurer, the county sinking fund commissioner or other county officer charged with the custodianship of sinking funds, and such custodian shall thereby be discharged from further responsibility for administration of and accounting for such sinking fund.

"§ 115C-475. Allocation to district bonds of taxes collected.—The collections of taxes levied for debt service on all taxable property of a county in which local district bonds have been assumed shall be proportionately allocated to each issue of such bonds.

"§ § 115C-476 to 115C-480: Reserved for future codification purposes.

“ARTICLE 34.

“Refunding and Funding Bonds of School Districts.

"§ 115C-481. School district defined.—The term ‘school district’ as used in this Article shall be deemed to include any special school taxing district, local tax district, special charter district, city administrative unit or other political subdivision of a county by which or on behalf of which bonds have been issued for erecting and equipping school buildings, or for refunding the same, and such bonds are outstanding.

"§ 115C-482. Continuance of district until bonds are paid.—Notwithstanding the provisions of any law which affect the continued existence of a school district or the levy of taxes therein for the payment of its bonds, such school district shall continue in existence with its boundaries unchanged from those established at the time of issuance of its bonds, unless such boundaries shall have been extended and thereby embrace additional territory subject to the levy of such taxes, until all of its outstanding bonds, together with the interest thereon, shall be paid.

"§ 115C-483. Funding and refunding of bonds authorized; issuance and sale or exchange; tax levy for repayment.—The board of commissioners of the county in which any such school district is located is hereby authorized to issue bonds at one time or from time to time for the purpose of refunding or funding the principal or interest of any bonds of such school district then outstanding. Such refunding or funding bonds shall be issued in the name of the school district and they may be sold or delivered in exchange for or upon the extinguishment of the obligations or indebtedness refunded or funded. Except as otherwise provided in this Article, such refunding and funding bonds shall be issued in accordance with the provisions of Chapter 159 of the General Statutes, the Local Government Finance Act. The tax-levying body or bodies authorized by law to levy taxes for the payment of the bonds, the principal or interest of which shall be refunded or funded, shall levy annually a special tax on all taxable property in such school district sufficient to pay the principal and interest of said refunding or funding bonds as the same become due.

"§ 115C-484. Issuance of bonds by cities and towns; debt statement; tax levy for repayment.—In case the governing body of any city or town is the body authorized by law to levy taxes for the payment of the bonds of such district, whether the territory embraced in such district lies wholly or partly within the corporate limits of such city or town, such governing body of such city or town is hereby authorized to issue bonds at the time or from time to time for the purpose of refunding or funding the principal or interest of any bonds then outstanding which were issued by or on behalf of such school district. Except as
otherwise provided in this Article, such refunding and funding bonds shall be issued in accordance with the provisions of the Local Government Bond Act, relating to the issuance of refunding and funding bonds under that act, and the provisions of the Local Government Finance Act, except in the following respects:

(1) The bonds shall be issued in the name and on behalf of the school district by the governing body of such city or town.

(2) It shall not be necessary to include in the ordinance authorizing the bonds, or in the notice required to be published after the passage of the ordinance, any statement concerning the filing of a debt statement, and, as applied to said bonds, G.S. 159-54 and G.S. 159-55 (the Local Government Bond Act,) shall be read and understood as if they contained no requirements in respect to such matters.

(3) The governing body of such city or town shall annually levy and collect a tax ad valorem upon all the taxable property in such school district sufficient to pay the principal and interest of such refunding or funding bonds as the same become due.

“§§ 115C-485 to 115C-489: Reserved for future codification purposes.

“ARTICLE 35.

“Voluntary Endowment Fund for Public Schools.

“§ 115C-490. Creation of endowment funds; administration.—Any local board of education is hereby authorized and empowered upon the passage of a resolution to create and establish a permanent endowment fund which shall be financed by gifts, donations, bequests or other forms of voluntary contributions. Any endowment fund established under the provisions of this Article shall be administered by the members of such board of education who, ex officio, shall constitute and be known as 'The Board of Trustees of the Endowment Fund of the Public Schools of_________County or_________City or Town' (in which shall be inserted the name of the county, city or town). The board of trustees so established shall determine its own organization and methods of procedure.

“§ 115C-491. Boards of trustees public corporations; powers and authority generally; investments.—Any board of trustees created and organized under this Article shall be a body politic, public corporation and instrumentality of government and as such may sue and be sued in matters relating to the endowment fund and shall have the power and authority to acquire, hold, purchase and invest in all forms of property, both real and personal, including, but not by way of limitation, all types of stocks, bonds, securities, mortgages and all types, kinds and subjects of investments of any nature and description. The board of trustees of said endowment fund may receive pledges, gifts, donations, devises and bequests, and may in its discretion retain such in the form in which they are made, and may use the same as a permanent endowment fund. The board of trustees of any endowment fund created hereunder shall have the power to sell any property, real, personal or choses in action, of the endowment fund, at either public or private sale. The board of trustees shall be responsible for the prudent investment of any funds or moneys belonging to the endowment fund in the exercise of its sound discretion without regard to any statute or rule of law relating to the investment of funds by fiduciaries.

“§ 115C-492. Expenditure of funds; pledges.—It is not the intent that such endowment fund created hereunder shall take the place of State appropriations
or any regular appropriations, tax funds or other funds made available by counties, cities, towns or local school administrative units for the normal operation of the public schools. Any endowment fund created hereunder, or the income from same, shall be used for the benefit of the public schools of the county, city or town involved and to supplement regular and normal appropriations to the end that the public schools may improve and increase their functions, may enlarge their areas of service and may become more useful to a greater number of people. The board of trustees in its discretion shall determine the objects and purposes for which the endowment fund shall be spent. Nothing herein shall be construed to prevent the board of trustees of any such endowment fund established hereunder from receiving pledges, gifts, donations, devises and bequests and from using the same for such lawful school purposes as the donor or donors designate: Provided, always, that the administration of any such pledges, gifts, donations, devises and bequests, or the expenditure of funds from same, will not impose any financial burden or obligation on the State of North Carolina or any subdivisions of government of the State. The board of trustees may, with the consent of the donor of any pledges, transfer and assign such pledges as security for loans. This consent by the donor may be made at the time of the pledge or at any time before said pledges are paid off in full. It is the purpose of this provision to enable the board of trustees to have the immediate use of funds which the donor may desire to pledge as payable over a period of years.

"§ 115C-493. When only income from fund expended.—Where he donor of said pledges, gifts, donations, devises and bequests so provides, the board of trustees shall keep the principal of such gift or gifts intact and only the income therefrom may be expended.

"§ 115C-494. Property and income of board of trustees exempt from State taxation.—All property received, purchased, contributed or donated to the board of trustees for the benefit of any endowment fund created hereunder and all donations, gifts and bequests received or otherwise administered for the benefit of said endowment fund, as well as the principal and income from said endowment fund, shall at all times be free from taxation, of any nature whatsoever, within the State.

"§§ 115C-495 to 115C-499: Reserved for future codification purposes.

"SUBCHAPTER VIII.

“Local Tax Elections.

“ARTICLE 36.


"§ 115C-500. Superintendents must furnish boundaries of special taxing districts.—It shall be the duty of superintendents to furnish tax listers at tax listing time the boundaries of each taxing district as provided in G.S. 115C-276(m).

"§ 115C-501. Purposes for which elections may be called.—(a) To Vote a Supplemental Tax.—Elections may be called by the local tax-levying authority to ascertain the will of the voters as to whether there shall be levied and collected a special tax in the several local school administrative units, districts, and other school areas, including districts formed from contiguous counties, to supplement the funds from State and county allotments and thereby operate schools of a higher standard by supplementing any item of expenditure in the school budget. When supplementary funds are authorized by the carrying of

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such an election, such funds may be used to employ additional teachers other than those allotted by the State, to teach any grades or subjects or for kindergarten instruction, to establish and maintain approved summer schools, to make the contribution to the Teachers' and State Employees' Retirement System of North Carolina for such teachers, or for any object of expenditure: Provided, that elections may be called to ascertain the will of the voters of an entire county, as to whether there shall be levied and collected a special tax on all the taxable property within the county for the purposes enumerated in this subsection. In such event, the supplemental tax shall be apportioned among the local school administrative units in the county pursuant to G.S. 115C-430.

(b) To Increase a Supplemental Tax Rate.—Elections may be called in any school area which has previously voted a supplemental tax of less than the maximum for the purpose of increasing the rate of tax previously voted but not to exceed the maximum.

(c) To Enlarge City Administrative Units.—Elections may be called in any districts, or other school areas, of a county administrative unit to ascertain the will of the voters in such districts or other school areas, as to whether an adjoining city administrative unit shall be enlarged by consolidating such districts, or other school areas, with such city administrative unit, and whether after such enlargement of the city administrative unit there shall be levied in such other districts, or other school area or areas, so consolidated with the city administrative unit the same school taxes as shall be levied in the other portion of the city administrative unit.

(d) To Supplement and Equalize Educational Advantages.—Elections may be called in any area of a county administrative unit which is enclosed in one common boundary line to ascertain the will of the voters as to whether there shall be levied and collected a special tax to supplement and equalize the standards on which the schools in such areas are operated, and at the same time repeal any special taxes heretofore voted by any parts of such area.

(e) To Abolish a Special School Tax.—Elections may be called in any local school administrative unit, district or other school area which has previously voted a supplemental tax, to ascertain the will of the people as to whether such tax shall be abolished.

(f) To Vote School Bonds.—Boards of county commissioners are authorized as provided by law to call elections to ascertain the will of the voters as to whether bonds for school purposes may be issued.

(g) To Provide a Supplemental Tax on a Countywide Basis after Petition for Consolidation of City or County Administrative Units.—Elections may be called for an entire county on the question of a special tax to supplement the funds from State and county allotments and thereby operate schools of a higher standard by supplementing any item of expenditure in the school budget, where the boards of education of all the city administrative units in said county have petitioned the county board of education for a consolidation with the county administrative unit pursuant to the provisions of the first paragraph of G.S. 115C-70(a) and prior to the approval of said petitions by the county and State boards of education. In which event, and provided the petitions so specify, if said election for a countywide supplemental tax fails to carry, said petitions may be withdrawn and any existing supplemental tax theretofore voted in any of the city administrative units involved or in the county administrative unit shall not be affected. If the vote for the countywide supplemental tax carries, said tax
shall not be levied unless and until the consolidation of the units involved shall be completed according to the requirements of the first paragraph of G.S. 115C-70(a).

(h) To Annex or Consolidate Areas or Districts from Contiguous Counties and to Provide a Supplemental School Tax in Such Annexed Areas or Consolidated Districts.—An election may be called in any districts or other school areas, from contiguous counties, as to whether the districts in one county shall be enlarged by annexing or consolidating therewith any adjoining districts, or other school area or areas from an adjoining county, and if a special or supplemental school tax is levied and collected in the districts of the county to which the territory is to be annexed or consolidated, whether upon such annexation or consolidation there shall be levied and collected in the territory to be annexed or consolidated the same special or supplemental tax for schools as is levied and collected in the districts in the other county. If such election carries, the said special or supplemental tax shall be collected pursuant to G.S. 115C-511 and remitted to the local school administrative unit on whose behalf such special and supplemental tax is already levied: Provided, that notwithstanding the provisions of G.S. 115C-508, if the notice of election clearly so states, and the election shall be held prior to August 1, the annexation or consolidation shall be effective and the tax so authorized shall be levied and collected beginning with the fiscal year commencing July 1 next preceding such elections.

“§ 115C-502. Maximum rate and frequency of elections.—(a) A tax for supplementing the public school budget shall not exceed fifty cents (50¢) on the one-hundred-dollar ($100.00) value of property subject to taxation by the local school administrative unit: Provided, that in any local school administrative unit, district, or other school area having a total population of not less than 100,000 said local annual tax that may be levied shall not exceed sixty cents (60¢) on one-hundred-dollar ($100.00) valuation of said property.

(b) If a majority of those who vote in any election called pursuant to the provisions of this Article do not vote in favor of the purpose for which such election is called, another election for the same purpose shall not be called for and held in the same local school administrative unit, district, or area until the lapse of six months after the prior election. However, the foregoing time limitation shall not apply to any election held in a local school administrative unit, district, or other school area which is larger or smaller than the local school administrative unit, district, or area in which the prior election was held, or to any election held for a different purpose than the prior election.

“§ 115C-503. Who may petition for election.—Local boards of education may petition the board of county commissioners for an election in their respective local school administrative units or for any school areas therein.

In county administrative units, for any of the purposes enumerated in G.S. 115C-501, the school committee of a district, or a majority of the committees in an area including a number of districts, or a majority of the qualified voters who have resided for the preceding 12 months in a school area less than a district, and which area is adjacent to a city unit or a district to which it is desired to be annexed and which can be included in a common boundary with said unit or district, or the committee of a district formed from portions of two or more contiguous counties, may petition the county board of education for an election.

The school committee of a district, or the majority of the committees in an area including a number of districts, or a majority of the qualified voters who
have resided for the preceding 12 months in a school area less than a district, and which area, district, districts or territory is adjacent to a district or districts in a contiguous county to which it is desired to be annexed or consolidated, and with the approval of the county board of education of the contiguous county to which it is desired to be annexed or consolidated, may petition the county board of education for an election.

"§115C-504. Necessary information in petitions.—The petition for an election shall contain such of the following information as may be pertinent to the proposed election:

(1) Purpose for calling the proposed election.

(2) A legally sufficient description of the area, by metes and bounds or otherwise, in which the election is requested.

(3) The maximum rate of tax which is proposed to be levied. This subdivision shall not apply to a petition for an election to enlarge a city administrative unit.

(4) If the petition is for an election to enlarge a city administrative unit, it shall state therein that, if a majority of those who shall vote in the area proposed to be consolidated with the city administrative unit shall vote in favor of such enlargement, such area shall be consolidated with the city administrative unit, effective July 1 next following such election, and that there shall thereafter be levied in such area so consolidated with the city administrative unit the same school taxes as shall be levied in the other portions of the city administrative unit, including any tax to provide for the payment of school bonds theretofore issued by or for such city administrative unit or for all or some part of the school area annexed to such city administrative unit, unless payment of such bonds has otherwise been provided for.

(5) If the petition for an election is to supplement and equalize educational advantages, and if any school districts in the area in which it is proposed to vote such a tax have heretofore voted a supplementary tax, the petition and the notice of election shall state that in the event such election is carried, it will repeal all local taxes heretofore voted in any district except those in effect for debt service in any district, unless such debt service obligation is assumed by the county or otherwise provided for.

"§115C-505. Boards of education must consider petitions.—The board of education to whom the petition requesting an election is addressed shall receive the petition and give it due consideration. If, in the discretion of the board of education, the petition for an election shall be approved, it shall be endorsed by the chairman and the secretary of the board and a record of the endorsement shall be made in the minutes of the board. Petitions for an election to enlarge a city administrative unit shall be subject to the approval and endorsement of both county and city boards of education which are therein affected.

Local boards of education shall have no discretion in granting an election to abolish a special school tax in any local school administrative unit, or district, or other school area, which has previously voted a supplemental tax, whenever a majority of the qualified voters residing in said local school administrative unit, district or school area shall petition for an election. When such a petition, showing the proper number of names of qualified voters, is presented to a board of education, it is hereby made mandatory that such petition shall be granted and the election held. If at the election a majority of those in the district who have voted thereon have voted 'against local tax', the tax shall be deemed
revoked and shall not be levied: Provided, that in Alexander, Anson, Beaufort, Buncombe, Carteret, Catawba, Chatham, Chowan, Cleveland, Craven, Currituck, Davidson, Duplin, Franklin, Gates, Greene, Henderson, Hoke, Hyde, Iredell, Jackson, Johnston, Lenoir, Martin, Mecklenburg, Moore, Nash, Onslow, Pamlico, Pitt, Randolph, Richmond, Robeson, Rockingham, Transylvania, Vance, Wake, Warren and Wilkes Counties, petition of twenty-five percent (25%) of the number of voters in the election creating said special tax district, said petition to be signed by qualified voters residing in such special tax district, shall be sufficient.

The provisions of this section as to abolishing local tax districts shall not be applied when such local tax district is in debt in any sum whatever, or has obligated or committed its resources in any contractual manner: Provided, that no election for revoking a local tax in any local tax district shall be ordered and held in the district within less than one year from the date of the election at which the tax was voted and the district established, nor at any time within less than one year after the date of the last election on the question of revoking the tax in the district; and no petition seeking to revoke a school tax shall be approved by a board of education more often than once a year.

If the petition for an election in an area containing a number of districts is signed by the school committeeman of at least a majority of the school districts within a proposed special school taxing area, the board of education in such administrative unit shall endorse such petition and the election shall be held.

"§ 115C-506. Action of board of county commissioners or governing body of municipality.—Petitions requesting special school elections and bearing the approval of the board of education of the local school administrative unit shall be presented to the board of county commissioners, and it shall be the duty of said board of county commissioners to call an election and fix the date for the same: Provided, that the board of education requesting the election may, for any reason deemed sufficient by said board which shall be specified and recorded in the minutes of the board, withdraw the petition before the close of the registration books, and if the petition be so withdrawn, the election shall not be held unless by some other provision of law the holding of such election is mandatory. In the case of a city administrative unit in any incorporated city or town and formed from portions of contiguous counties, said petition shall be presented to the governing body of the city or town situated within, coterminous with, or embracing such city administrative unit, and the election shall be ordered by said governing body, and said governing body shall perform all the duties pertaining to said election performed by the board of county commissioners in elections held under this Article.

"§ 115C-507. Rules governing elections.—All elections under this Chapter shall be held and conducted by the appropriate county or municipal board of elections.

If the purpose of the election is to enlarge a city administrative unit, the notice of election shall include the following: a statement of the purpose of the election; a legal description of the area within which the election is to be held; and a statement that if a majority of those who shall vote in the area proposed to be consolidated with the city administrative unit shall vote in favor of such enlargement such area shall be consolidated with the city administrative unit, effective July 1 next following such election, and there shall thereafter be levied in such area so consolidated with the city administrative unit the same school
taxes as shall be levied in the other portions of the city administrative unit, including any tax levy to provide for the payment of school bonds theretofore issued by or for such city administrative unit or for all or some part of the school area annexed to such city administrative unit, unless payment of such bonds has otherwise been provided for.

The notice of the election shall be given as provided in G.S. 163-33(8) and in addition include a legal description of the area within which the election is to be held, and, if any additional tax is proposed to be levied, the maximum rate of tax to be levied which shall not exceed the maximum prescribed by this Article, and the purpose of the tax.

No new registration of voters is required, but the board of elections, in its discretion, may use either Method A or Method B set forth in G.S. 163-288.2 in activating the voters in the territory.

The ballot in such election shall contain the words 'FOR local tax and AGAINST local tax' except when the election is held under subsection (c) of G.S. 115C-501, in which case the ballots shall contain the words 'FOR enlargement of the _______ City Administrative Unit and school tax of the same rate', and 'AGAINST enlargement of the _______ City Administrative Unit and school tax of the same rate'.

The elections shall be held in accordance with the applicable provisions of Chapter 163 and the expense of the election shall be paid by the board of education of the administrative unit in which the election is held, provided that when territory is proposed to be added to a city administrative unit, that unit shall bear the expense.

No election held under this Article shall be open to question except in an action or proceeding commenced within 30 days after the board of elections has certified the results.

"§ 115C-508. Effective date; levy of taxes.—(a) If, in any election authorized by this Article, a majority of the voters voting in such election vote in favor of the enlargement of a city administrative unit, such enlargement shall become effective July 1 next following such election; and thereafter there shall be levied and collected in the area consolidated with the city administrative unit the same school taxes as shall be levied in the other portions of the city administrative unit.

(b) If, in any election authorized by this Article, a majority of the voters voting in such election vote in favor of a supplemental tax, or in favor of the increase of a supplemental tax, or in favor of a tax to supplement and equalize educational advantages, the tax so authorized shall be levied and collected beginning with the fiscal year commencing July 1 next following such election.

"§ 115C-509. Conveyance of school property upon enlargement of city administrative unit.—Before any election is called to enlarge a city administrative unit, if any school property is located in the area proposed to be consolidated with the city administrative unit, the board of education of such city administrative unit and the board of education of the county administrative unit concerned shall agree with each other as to the school property to be conveyed and transferred to the board of education of the city administrative unit if a majority of the voters voting in the election vote in favor of such enlargement. And, if such enlargement is authorized by such election, the board of education of the county administrative unit shall, within 10 days after July 1 next following such election, convey and transfer to the
board of education of the city administrative unit the property so agreed to be conveyed and transferred.

"§ 115C-510. Elections in districts created from portions of contiguous counties.—Districts already created and those that may be created from portions of two or more contiguous counties may hold elections under this Article to be incorporated or to vote a special local tax therein for the purposes enumerated in G.S. 115C-501.

Elections for either purpose must be initiated by petitions from the portion of each county included in the district, or the proposed district. In districts already created, the majority of the committeemen must sign the petition. In proposed districts, the petition must be signed by fifteen percent (15%) of the registered voters who reside in the area. When the petitions shall have been approved by each of the boards of education of such contiguous counties, they shall then be presented by each of said boards of education to their respective boards of county commissioners.

The boards of commissioners of each of the contiguous counties, in compliance with the provisions of this Article relating to the conduct of local tax elections, then shall call upon the county board of elections to hold an election in that portion of the proposed district lying in its county. Election returns shall be made from each portion of the proposed district to the board of commissioners ordering the election in that portion, and the returns shall be canvassed and recorded as required in this Article for local tax districts.

If a majority of the voters who vote thereon in each of the counties shall vote in favor of the tax, or for incorporation, the election shall be determined to have carried in the whole district, and shall be so recorded in the records of the board of county commissioners in each county in which the district is located.

If the proposition submitted to the voters in the election is a question of incorporating the district, the ballots for this election shall have printed thereon the words 'For incorporation' and 'Against Incorporation'. If the election for incorporation is carried, the district is thereby incorporated and shall possess all the authority of incorporated districts.

In case the election carried in each portion of the proposed district, the several county boards of education concerned shall each pass a formal order consolidating the territory into one joint local tax district, which shall be and become a body corporate by the name and style of '________ Joint Local Tax School District of ________ Counties'. The county board of education having the largest school census and the largest area in the part of the joint local tax district lying in its county shall determine the location of the schoolhouse; but if the largest census and largest area do not both lie in the same county, then the county boards shall jointly select the site for the building; and in case of a disagreement they shall submit the question to a board of arbitration consisting of three members, one member to be named by each board of education if three counties are concerned, or if there are but two counties, then each board shall choose one member and the two so named shall select the third member. The decision of this board of arbitration shall be binding on all county boards of education concerned.

The school committee shall consist of five members, three of whom shall be appointed by the board of education of the county in which the building is to be situated and two to be appointed by the other county or counties, but the terms of office shall be so arranged that not more than two members will retire in any
one year. The committee shall officially exercise such corporate powers as are conferred by this section. This committee shall have all the powers and duties of committees of local tax districts, and in addition thereto it shall adopt a corporate seal and have the power to sue and be sued in its corporate name. The committee shall have the power to determine the rate of local taxes to be levied in said joint district, not exceeding the rate authorized by the voters of the district, and when the committee shall have so determined the rate of local taxes to be levied in said joint district and shall have certified same to the boards of commissioners of the several counties from which said joint district is created, the said boards of county commissioners, and each of them, shall levy said rate of local taxes within the portion of said joint district lying within their respective counties; and the taxes so levied shall be collected in the several counties as other taxes are collected therein, and shall be paid over by the officers collecting the same to the treasurer or other fiscal agent of the county in which the schoolhouse is located, or is to be located, to be by him placed to the credit of the joint district.

The committee shall have as full authority to call and hold elections for the voting of bonds of the district as is conferred upon boards of education and boards of commissioners. In calling the election for a bond issue, no petition of the county board of education shall be necessary; but the election shall be called and held by the school committee of the incorporated local tax school district under as ample authority as is conferred upon both county boards of education and boards of commissioners. When bonds of the district have been voted under authority of this section, they shall be issued subject to the limitations of the Local Government Finance Act in the corporate name of the district, signed by the chairman and secretary of the school committee, sold by the school committee, and the proceeds thereof deposited with the treasurer of the county board of education of the county in which the school building is, or is to be located, to be placed to the credit of the joint district, and the taxes for the payment of principal and interest shall be levied and collected as provided hereinabove for the levy and collection of local taxes: Provided, that certified copies of the bond orders and resolutions shall be recorded on the minutes of the board of commissioners of each county constituting a part of the joint school district.

The building of all schoolhouses in such joint local tax districts shall be effected by the county board of education of the county in which the building is to be located under authority of law governing the erection of school buildings by county boards of education. It shall be lawful for the boards of education in the other county or counties to contribute to the cost of the building in proportion to the number of children shown by the official census to be resident within that part of the joint district lying within each county respectively. If the building is to be erected from moneys borrowed from the State Literary Fund or from county taxation, then each county board of education shall contribute to its construction in the proportion set out above and pay over its contribution to the treasurer of the county board having control of the erection of the building: Provided, it shall be lawful for the county board that controls the erection of the building to borrow from the State and lend to the district the full amount of the cost of the building in cases where the entire amount, or part of the amount, is to be repaid by the district from district funds.
All district funds of a joint local tax district shall be kept distinct from all other funds, placed to the credit of the district, and expended as other local tax or district bond funds are lawfully disbursed.

The county board of education and county superintendent of schools of the county in which the schoolhouse is located shall have as full and ample control over the joint school and the district as it has in the case of other local tax districts, subject only to the limitations of this section.

The committee of the joint school district shall prepare a budget annually in accordance with the law governing budgets in which the committee will indicate objects and items of expenditure which are proposed to be made from the collection of the special tax of the district. This budget shall show the proportionate part of the expense to be contributed by each county, which part shall be ascertained on the basis of the proportions of the total district school census living in each respective county. When this budget is completed by the committee of the joint district, a copy of it shall be filed with the county board of education of each county, and it shall be the duty of each board of education, if it approves the district budget, to incorporate it in the county budget to be submitted to the board of commissioners of each county. Each of the several county boards of education is hereby directed to pay over its proportionate part of the district budget, when and as collected, to the treasurer of the board of education of the county in which the school plant is located for the purposes for which it has been levied and collected.

All districts formed from portions of contiguous counties before the ratification of this Article are hereby authorized and empowered to exercise all the powers and privileges conferred by this Article.

§ 115C-511. Levy and collection of taxes.—(a) If a local school administrative unit or district has voted a tax to operate schools of a higher standard than that provided by State and county support, the board of county commissioners of each county in which the local school administrative unit is located is authorized to levy a tax on all property having a situs in the local school administrative unit for the purpose of supplementing the local current expense fund, the capital outlay fund, or both.

(b) Before April 15 of each year, the tax supervisor of each county in which the local school administrative unit is located shall certify to the superintendent of schools an estimate of the total assessed value of property in the county subject to taxation on behalf of the local school administrative unit and any districts therein pursuant to this Article. The board of education, in the budget it submits to the board of county commissioners, shall request the rate of ad valorem tax it wishes to have levied on its behalf as a school supplemental tax, not in excess of the rate approved by the voters. The board of county commissioners may approve or disapprove this request in whole or in part, and may levy such rate of supplemental tax as it may find to be in the best interests of the taxpayers and the public schools, not in excess of the rate requested by the board of education. Upon approving a supplemental tax levy pursuant to this section, the board of county commissioners shall cause the school supplemental tax to be computed for all property subject thereto. The taxes thus computed shall be shown separately on the county tax receipts for the fiscal year, and the county shall collect the school supplemental tax in the same manner that county taxes are collected. Collections shall be remitted to the local school administrative unit within 10 days after the close of each
calendar month. Partial payments shall be proportionately divided between the county and the local school administrative unit. The board of county commissioners may, in its discretion, deduct from the proceeds of the school supplemental tax the actual additional cost to the county of levying, computing, billing, and collecting the tax.

(c) It shall be unlawful for any part of a tax levied pursuant to this Article to be used for any purpose other than those purposes authorized by the election in the unit or district.

"§§ 115C-512 to 115C-516: Reserved for future codification purposes.

"SUBCHAPTER IX.

"Property.

"ARTICLE 37.

"School Sites and Property.

"§ 115C-517. Acquisition of sites.—Local boards of education may acquire suitable sites for schoolhouses or other school facilities either within or without the local school administrative unit; but no school may be operated by a local school administrative unit outside its own boundaries, although other school facilities such as repair shops, may be operated outside the boundaries of the local school administrative unit. Whenever any such board is unable to acquire or enlarge a suitable site or right-of-way for a school, school building, school bus garage or for a parking area or access road suitable for school buses or for other school facilities by gift or purchase, condemnation proceedings to acquire same may be instituted by such board under the provisions of Article 2, Chapter 40 of the General Statutes, and the determination of the local board of education of the land necessary for such purposes shall be conclusive: Provided, that not more than a total of 50 acres shall be acquired by condemnation for any one site for a schoolhouse or other school facility as aforesaid.

"§ 115C-518. Sale, exchange or lease of school property; easement and rights-of-way.—(a) When in the opinion of any local board of education, or the use of any building, building site, or other real property owned or held by such board is unnecessary or undesirable for public school purposes, the board may sell such property at public auction. Such sale shall be held on the property to be sold or at the courthouse door in the county in which such property is located, and shall be advertised and otherwise conducted as is prescribed by statute for judicial sales of real property. The sale shall then remain open for 10 days to permit the making of an upset bid. The resale of such property following such upset bid, and the procedure therefor shall be as prescribed by statute for judicial sales of real property. If the time for making an upset bid shall expire without such bid having been made, the board may confirm the sale if it deems the highest bid to be an adequate price. Upon confirmation of the sale by the board, the chairman and the secretary of the board shall execute a deed to the purchaser of the property upon his compliance with his bid. Confirmation of the sale by the clerk of the superior court shall not be required. The proceeds of the sale shall be paid to the treasurer of the school fund of such local school administrative unit, and shall be used either to reduce the bonded indebtedness of such local school administrative unit or for capital outlay purposes.

(b) When in the opinion of any local board of education, the use of any property, other than real property, owned or held by such board is unnecessary or undesirable for public school purposes, the board may sell such property
either through the facilities of the North Carolina Department of Administration or at public auction.

If the property is to be sold at public auction, the sale shall be held at that place within that local school administrative unit and at that time which are designated by the board. A notice of sale shall be published at least once, not less than seven nor more than 15 days before the date of the sale, in a paper of general circulation in the county where the personal property is to be sold. The notice of sale shall adequately identify the property to be sold so as to acquaint prospective bidders with the nature and location of the property and shall set out the date, time, place and terms of sale.

The personal property shall be present at the time and place of the sale, unless the board determines that the nature, condition or use of the property makes it impractical to have the property present. If the property is not to be present at the time and place of sale, reasonable opportunity shall be afforded to prospective buyers to inspect the property prior to the sale, and the notice of sale shall include notice of the time and place where an inspection of the property may be made.

The board shall designate the person to conduct the sale. If the person conducting the sale is an officer or employee of the board, he shall receive no additional compensation for his services in conducting the sale; any other person shall receive such fee as may be agreed upon with the board but in no case to exceed five percent (5%) of the proceeds of the sale.

The sale may be postponed when there are no bidders; or when in the judgment of the person conducting the sale the number of prospective bidders is substantially decreased by inclement weather or by other casualty; or when the person designated to conduct the sale is unable to hold the sale because of illness or other good reason; or when other good cause exists. If the sale is postponed, the board shall readvertise and schedule and hold the sale at a later time, subject to the same conditions governing the originally scheduled sale.

Title to the property so sold shall not pass by reason of such sale until the sale has been confirmed by the board and the purchaser has complied with the terms of his bid. The proceeds of such sale shall be paid to the treasurer of the school fund of such local school administrative unit.

(c) If in the opinion of the board the highest bid at any sale or resale of real or personal property sold pursuant to the provisions of this section is not adequate, such bid may be rejected and the property may again be advertised for sale as provided in this section, or may be sold by the board at a private sale for a price in excess of the highest bid at such public sale so long as such private sale is consummated within a period of one year from the date of the initial public offering.

Any sale of real property at private sale made prior to May 1, 1959, is hereby validated, so long as the real property so sold was first advertised for sale at public auction as provided by this section and the price received therefor was in excess of the highest bid received at such public offering.

(d) In the acquisition by it of any property for public school purposes any local board of education may exchange therefor, as full or partial payment therefor, any property owned or held by it, without compliance with the provisions of this section: Provided, that for at least 10 days before any exchange of real property shall be consummated, the terms of such proposed exchange shall be filed in the office of the superintendent of schools of such
local school administrative unit and in the office of the clerk of the superior court in the county in which such property is located, and a notice thereof published one or more times in any newspaper having a general circulation in the local school administrative unit at least 10 days before the consummation of said exchange.

(e) When in the opinion of any local board of education, the use of any property owned or held by it is unnecessary or undesirable for public school purposes, but the sale of such property is not practicable or in the public interest, such board may in its discretion enter into an agreement with any other person, firm or corporation for the lease of such property to such person, firm or corporation for a term not in excess of one year, upon such terms and conditions as the board shall deem advisable and in the public interest. Upon a two-thirds vote of the board that such is in the public interest and with the approval of the board's tax levying authority, the board may enter into an agreement for the lease of such property for a term in excess of one year but for not more than 10 years. Provided, however, the proceeds of such lease authorized herein shall be used either to reduce the bonded indebtedness of such local school administrative unit or for capital outlay purposes. Nothing in this subsection shall invalidate any local act authorizing the lease of any such property or in any way limit the authority of local boards of education to enter into leases with other governmental units pursuant to G.S. 160A-274.

(f) In addition to the foregoing, local boards of education are hereby authorized and empowered, in their sound discretion, to grant easements to any public utility, municipality or quasi-municipal corporation to furnish utility services to school property, with or without compensation except the benefits accruing by virtue of the location of the said public utility, and to dedicate portions of any lands owned by such boards as rights-of-way for public streets, roads or sidewalks, with or without compensation except the benefits accruing by virtue of the location or improvement of such public streets, roads or sidewalks.

(g) Sale, lease, exchange and joint use of governmental property by a local school administrative unit is subject to the provisions of G.S. 160A-274.

§ 115C-519. Deeds to property.—All deeds to school property shall, after registration, be delivered to the superintendent of the local school administrative unit in which the property is located and he shall provide a safe place for preserving all such deeds.

§ 115C-520. Vehicles owned by boards of education.—All school buses, trucks, automobiles and other motor vehicles owned by local boards of education and used for transporting pupils to and from school or used by other school personnel in the performance of their work, shall be exempt from taxation, but all such vehicles shall be duly registered in the Department of Motor Vehicles as provided in G.S. 20-84.

§ 115C-521. Erection of school buildings.—(a) It shall be the duty of local boards of education to provide classroom facilities adequate to meet the requirements of G.S. 115C-47(j) and 115C-301.

(b) It shall be the duty of the boards of education of the several local school administrative school units of the State to make provisions for the public school term by providing adequate school buildings equipped with suitable school furniture and apparatus. The needs and the cost of such buildings, equipment, and apparatus, shall be presented each year when the school budget is
submitted to the respective tax-levying authorities. The boards of commissioners shall be given a reasonable time to provide the funds which they, upon investigation, shall find to be necessary for providing their respective units with buildings suitably equipped, and it shall be the duty of the several boards of county commissioners to provide funds for the same.

Upon determination by a local board of education that the existing permanent school building does not have sufficient classrooms to house the pupil enrollment anticipated for such school, then such local board of education is authorized to acquire and utilize as temporary classrooms for the operation of such school, relocatable or mobile classroom units, which units and method of use shall meet the approval of the School Planning Division of the State Board of Education, and which units shall comply with all applicable requirements of the North Carolina State Building Code and of the local building and electrical codes applicable to the area in which such school is located. The acquisition and installation of such units shall be subject in all respects to the provisions of Chapter 143 of the General Statutes. The provisions of Chapter 87, Article 1, of the General Statutes, shall not apply to persons, firms or corporations engaged in the sale or furnishing to local boards of education and the delivery and installation upon school sites of classroom trailers as a single building unit or of relocatable or mobile classrooms delivered in less than four units or sections.

(c) The building of all new schoolhouses and the repairing of all old schoolhouses shall be under the control and direction of, and by contract with, the board of education in which such building and repairing is done. Boards of education shall not invest any money in any new building that is not built in accordance with plans approved by the State Superintendent to structural and functional soundness, safety and sanitation, nor contract for more money than is made available for its erection. All contracts for buildings shall be in writing and all buildings shall be inspected, received, and approved by the local superintendent and the architect before full payment is made therefor: Provided, that this subsection shall not prohibit boards of education from repairing and altering buildings with the help of janitors and other regular employees of said board.

In the case of any school buildings erected, repaired, or equipped with any money loaned or granted by the State to any local school administrative unit, the State Board of Education, under such rules as it may deem advisable, may retain any amount not to exceed fifteen percent (15%) of said loan or grant, until such completed buildings, erected or repaired, in whole or in part, from such loan or grant funds, shall have been approved by a designated agent of the State Board of Education.

Upon such approval by the State Board of Education, the State Treasurer is authorized to pay the balance of the loan or grant to the treasurer of the local school administrative unit for which said loan or grant was made.

(d) Local boards of education shall make no contract for the erection or repair of any school building unless the site upon which it is located is owned in fee simple by the said board: Provided, that the board of education of a local school administrative unit, with the approval of the board of county commissioners is authorized to appropriate funds to aid in the establishment of a school facility and the operation thereof in an adjoining local school administrative unit when a written agreement between the boards of education of the administrative units involved has been reached and the same recorded in the minutes of said
boards, whereby children from the administrative unit making such appropriations shall be entitled to attend the school so established.

In all cases where title to property has been vested in the trustees of a special charter district which has been abolished and has not been reorganized, title to such property shall be vested in the local board of education of the county embracing such former special charter district.

"§ 115C-522. Provision of equipment for buildings.—(a) It shall be the duty of local boards of education to purchase or exchange all supplies, equipment and materials in accordance with contracts made by or with the approval of the Department of Administration. Title to instructional supplies, office supplies, fuel and janitorial supplies, enumerated in the current expense fund budget and purchased out of State funds, shall be taken in the name of the local board of education which shall be responsible for the custody and replacement: Provided, that no contracts shall be made by any local school administrative unit for purchases unless provision has been made in the budget of such unit to provide payment therefor, or unless surplus funds are on hand to pay for same, and in order to protect the State purchase contracts, it is hereby made the duty upon the part of the governing authorities of such local units to pay for such purchases promptly in accordance with the terms of the contract of purchase.

(b) It shall be the duty of the local boards of education to provide suitable school furniture and apparatus, as provided in G.S. 115C-521(b).

(c) It shall be the duty of local boards of education and tax-levying authorities to provide suitable supplies for the school buildings under their jurisdictions. These shall include, in addition to the necessary instructional supplies, proper window shades, blackboards, reference books, library equipment, maps, and equipment for teaching the sciences.

Likewise, it shall be the duty of said boards of education and boards of county commissioners to provide every school with a good supply of water, approved by the Department of Human Resources, and where such school cannot be connected to water-carried sewerage facilities, there shall be provided sanitary privies for the boys and for the girls according to specifications of the Commission for Health Services. Such water supply and sanitary privies shall be considered an essential and necessary part of the equipment of each public school and may be paid for in the same manner as desks and other essential equipment of the school are paid for.

"§ 115C-523. Care of school property.—It shall be the duty of every teacher and principal in charge of school buildings to instruct the children in the proper care of public property, and it is their duty to exercise due care in the protection of school property against damage, either by defacement of the walls and doors or any breakage on the part of the pupils, and if they shall fail to exercise a reasonable care in the protection of property during the day, they may be held financially responsible for all such damage, and if the damage is due to carelessness or negligence on the part of the teachers or principal, the superintendent may hold those in charge of the building responsible for the damage, and if it is not repaired before the close of a term, a sufficient amount may be deducted from their final vouchers to repair the damage for which they are responsible.

If any child in school shall carelessly or willfully damage school property, the teacher or principal shall report the damage to the parent, and if the parent
refuses to pay the cost of repairing the same, the teacher or principal shall report the offense to the superintendent of schools.

It shall be the duty of all principals to report immediately to their respective superintendents any unsanitary condition, damage to school property or needed repair.

"§ 115C-524. Repair of school property.—(a) Repair of school buildings is subject to the provisions of G.S. 115C-521(c) and (d).

(b) It shall be the duty of local boards of education and tax-levying authorities, in order to safeguard the investment made in public schools, to keep all school buildings in good repair to the end that all public school property shall be taken care of and be at all times in proper condition for use. It shall be the duty of all committeemen, principals, teachers, and janitors to report to their respective boards of education immediately any unsanitary condition, damage to school property, or needed repair. All principals, teachers, and janitors shall be held responsible for the safekeeping of the buildings during the school session and all breakage and damage shall be repaired by those responsible for same, and where any principal or teacher shall permit damage to the public school buildings by lack of proper discipline of pupils, such principal or teacher shall be held responsible for such damage: Provided, principals and teachers shall not be held responsible for damage that they could not have prevented by reasonable supervision in the performance of their duties.

Notwithstanding the provisions of G.S. 115C-263 and G.S. 115C-264, local boards of education shall have authority to adopt rules and regulations by which school buildings, including cafeterias and lunchrooms, may be used for other than school purposes so long as such use is consistent with the proper preservation and care of the public school property. No liability shall attach to any board of education, individually or collectively, for personal injury suffered by reason of the use of such school property.

"§ 115C-525. Fire prevention.—(a) Duty of Principal Regarding Fire Hazards.—The principal of every public school in the State shall have the following duties regarding fire hazards during periods when he is in control of a school:

(1) Every principal shall make certain that all corridors, halls, and tower stairways which are used for exits shall always be kept clear and that nothing shall be permitted to be stored or kept in corridors or halls, or in, on or under stairways that could in any way interfere with the orderly exodus of occupants. The principal shall make certain that all doors used for exits shall be kept in good working condition. During the occupancy of the building or any portion thereof by the public or for school purposes, the principal shall make certain that all doors necessary for prompt and orderly exodus of the occupants are kept unlocked.

(2) Every principal shall make certain that no electrical wiring shall be installed within any school building or structure or upon the premises and that no alteration or addition shall be made in any existing wiring, except with the authorization of the superintendent. Any such work shall be performed by a licensed electrical contractor, or by a maintenance electrician regularly employed by the board of education and approved by the Commissioner of Insurance.
(3) Every principal shall make certain that combustible materials necessary to the curriculum and for the operation of the school shall be stored in a safe and orderly manner.

(4) Every principal shall make certain that all supplies, such as oily rags, mops, etc., which may cause spontaneous combustion, shall be stored in an orderly manner in a well-ventilated place.

(5) Every principal shall make certain that all trash and rubbish shall be removed from the school building daily. No trash or rubbish shall be permitted to accumulate in a school attic, basement or other place on the premises.

(6) Every principal shall cooperate in every way with the authorized building inspector, electrical inspector, county fire marshal or other designated person making the inspections required by G.S. 115C-525(b).

It shall further be the duty of the principal to bring to the attention of the local superintendent of schools the failure of the building inspector, electrical inspector, county fire marshal, or other person to make the inspections required by G.S. 115C-525(b). It shall further be the duty of the principal to call to the attention of the superintendent of schools all recommendations growing out of the inspections, in order that the proper authorities can take steps to bring about the necessary corrections.

(b) Inspection of Schools for Fire Hazards; Removal of Hazards.—Every public school building in the State shall be inspected every four months in accordance with the following plan: Provided, that the periodic inspections herein required shall be at least 90 days apart:

(1) Each school building shall be inspected to make certain that none of the fire hazards enumerated in G.S. 115C-525(a)(1) through (5) exist, and to insure that all heating, mechanical, electrical, gas, and other equipment and appliances are properly installed and maintained in a safe and serviceable manner as prescribed by the North Carolina Building Code. Following each inspection, the persons making the inspection shall furnish to the principal of the school a written report of conditions found during inspection, upon forms furnished by the Commissioner of Insurance, and the persons making the inspection shall also furnish a copy of the report to the superintendent of schools; the superintendent shall keep such copy on file for a period of three years. In addition to the periodic inspections herein required, any alterations or additions to existing school buildings or to school building utilities or appliances shall be inspected immediately following completion.

(2) The board of county commissioners of each county shall designate the persons to make the inspections and reports required by subdivision (1) of this subsection. The board may designate any city or county building inspector, any city or county fire prevention bureau, any city or county electrical inspector, the county fire marshal, or any other qualified persons, but no person shall make any electrical inspection unless he shall be qualified as required by G.S. 153A-351.1 and Section 7 of Chapter 531 of the 1977 Session Laws. Nothing in this section shall be construed as prohibiting two or more counties from designating the same persons to make the inspections and reports required by subdivision (1) of this subsection. The board of county commissioners shall compensate or provide for the compensation of the persons.
designated to make all such inspections and reports. The board of county commissioners may make appropriations in the general fund of the county to meet the costs of such inspections, or in the alternative the board may add appropriations to the school current expense fund to meet the costs thereof: Provided, that if appropriations are added to the school current expense fund, such appropriations shall be in addition to and not in substitution of existing school current expense appropriations.

(3) It shall be the duty of the Commissioner of Insurance, the Superintendent of Public Instruction, and the State Board of Education to prescribe any additional rules and regulations which they may deem necessary in connection with such inspections and reports for the reduction of fire hazards and protection of life and property in public schools.

(4) It shall be the duty of each principal to make certain that all fire hazards called to his attention in the course of the inspections and reports required by subdivision (1) of this subsection are immediately removed or corrected, if such removal or correction can be accomplished by the principal. If such removal or correction cannot be accomplished by the principal, it shall be the duty of the principal to bring the matter to the attention of the superintendent.

(5) It shall be the duty of each superintendent of schools to make certain that all fire hazards called to his attention in the course of the inspections and reports required by subdivision (1) of this subsection and not removed or corrected by the principals as required by subdivision (4) of this subsection are removed or corrected, if such removal or correction can be brought about within the current appropriations available to the superintendent. Where any removal or correction of a hazard will require the expenditure of funds in excess of current appropriations, it shall be the duty of the superintendent to bring the matter to the attention of the appropriate board of education, and the board of education in turn shall bring the same to the attention of the board of county commissioners, in order that immediate steps be taken, within the framework of existing law, to remove or correct the hazard.

(c) Liability for Failure to Perform Duties Imposed by G.S. 115C-288 and 115C-525(a) or 115C-525(b).—Any person willfully failing to perform any of the duties imposed by G.S. 115C-288, 115C-525(a) or 115C-525(b) shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars ($500.00) in the discretion of the court.

“§ 115C-526. Reward for information leading to arrest of persons damaging school property.—Local boards of education are authorized and empowered to offer and pay rewards in an amount not exceeding three hundred dollars ($300.00) for information leading to the arrest and conviction of any persons who willfully deface, damage, destroy or commit acts of vandalism or larceny of, the property belonging to the public school system under the jurisdiction of and administered by any local board of education.

“§ 115C-527. Use of schools and other public buildings for political meetings.—The governing authority having control over schools or other public buildings which have facilities for group meetings, or where polling places are
located, is hereby authorized and directed to permit the use of such buildings without charge, except custodial and utility fees, by political parties, as defined in G.S. 163-96, for the express purpose of biennial precinct meetings and county and district conventions: Provided, that the use of such buildings by political parties shall not be permitted at times when school is in session or which would interfere with normal school activities or functions normally carried on in such buildings, and such use shall be subject to reasonable rules and regulations of the school boards and other governing authorities.

"§ 115C-528 to 115C-532: Reserved for future codification purposes.

"ARTICLE 38.

"State Insurance of Public School Property.

"§ 115C-533. Duty of State Board to operate insurance system.—The State Board shall have the duty to manage and operate a system of insurance for public school property.

"§ 115C-534. Duty to insure property.—(a) The board of every local school administrative unit in the public school system of this State, in order to safeguard the investment made in public schools, shall:

(1) Insure and keep insured to the extent of not less than seventy-five percent (75%) of the current insurable value as determined by the insurer and the insured of each of its insurable buildings against fire, lightning and the perils embraced in extended coverage.

(2) Insure and keep insured adequately the equipment and contents of said building.

(b) The tax-levying authority for each local school administrative unit shall appropriate funds necessary for compliance with the provisions of subsection (a).

(c) Willful failure to comply with the provisions of (a) and (b) above, is declared a misdemeanor punishable by a fine of not more than fifty dollars ($50.00) or imprisonment for not more than 30 days. Every 24 hours without such insurance constitutes a separate offense.

"§ 115C-535. Authority and rules for organization of system.—The State Board of Education is hereby authorized, directed and empowered to establish a division to manage and operate a system of insurance for public school property. The Board shall adopt such rules and regulations as, in its discretion, may be necessary to provide all details inherent in the insurance of public school property. The Board shall employ a director, safety inspectors, engineers and other personnel with suitable training and experience, which in its opinion is necessary to insure and protect effectively public school property, and it shall fix their compensation with the approval of the Personnel Commission.

"§ 115C-536. Public School Insurance Fund; decrease of premiums when fund reaches 5% of total insurance in force.—There shall be set up in the books of the State Treasurer a fund to be known and designated as the 'Public School Insurance Fund', which fund hereafter in G.S. 115C-535 to G.S. 115C-542 is referred to as 'the Fund.' In order to provide adequate reserves against losses which may be incurred on account of the risks insured against as provided in G.S. 115C-535 to G.S. 115C-542 and to provide payment for such losses as may be incurred therein, there is hereby appropriated to the Fund the sum of two million dollars ($2,000,000), which shall be paid from and charged to the State Literary Fund as set up and defined in this Chapter. When the reserves in the Fund shall be increased by the payment of premiums by the governing boards of
local school administrative school units, or otherwise, to the extent of one million dollars ($1,000,000), there shall be transferred from the Fund back to the State Literary Fund the sum of one million dollars ($1,000,000) and when the Fund shall again be increased to the extent of another one million dollars ($1,000,000), there shall be transferred therefrom back to the State Literary Fund an additional sum of one million dollars ($1,000,000) in full reimbursement of the sum of two million dollars ($2,000,000), which is authorized to be transferred from the State Literary Fund by the provisions hereof. All funds paid over to the State Treasurer for premiums on insurance by the governing boards of local school administrative units and all money received from interest or from loans and deposits and from any other source connected with the insurance of the property hereinafter referred to shall be held by the State Treasurer in the Fund for the purpose of paying all fire, lightning, windstorm, hail and explosion losses for which the said Fund shall be liable and the expenses necessary for the proper conduct of the insurance of said property, together with such premiums for reinsurance of such part of said insurance as the State Board of Education may deem necessary to reinsure, as provided for in G.S. 115C-535 to G.S. 115C-542. The State Treasurer shall be the custodian of the Fund and shall invest its assets in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3.

When the fund herein provided for reaches the sum of five percent (5%) of the total insurance in force, then annually thereafter the State Board of Education shall proportionately decrease the premiums on insurance to an amount which will be sufficient to maintain the Fund at five percent (5%) of the total insurance in force, and in the event in the judgment of the State Board of Education the income from the investments of the Fund are sufficient to maintain the same at five percent (5%) of the total insurance in force, no premium shall be charged for the ensuing year: Provided, that no building or property insured shall cease to pay premiums until five annual payments of premiums have been made whether or not through such payments the Fund shall be increased beyond five percent (5%) of the total insurance in force, unless such building or property shall cease to be insurable within the meaning of G.S. 115C-535 to G.S. 115C-542 within such five-year period.

§ 115C-537. **Insurance of property by local boards; notice of election to insure and information to be furnished; outstanding policies.**—All local boards of education may insure all property within their units against the direct loss or damage by fire, lightning, windstorm, hail or explosions resulting by reason of defects in equipment in public school buildings and other public school properties in the Fund hereinafter set up and provided for. Any property covered by an insurance policy in effect on the date when the property of a unit is insured in the Fund shall be insured by the Fund as of the expiration of the policy. Each local board shall give notice of its election to insure in the Fund at least 30 days prior to such insurance becoming effective and shall furnish to the State Board of Education a full and complete list of all outstanding fire insurance policies, giving in complete detail the name of the insurers, the amount of the insurance and expirations thereof. While the said insurance policies remain in effect, the Fund shall act as coinsurer of the properties covered by such insurance to the same extent and in the same manner as is provided for coinsurance under the provisions of the standard form of fire
insurance as provided by law, and in the event of loss shall have the same rights and duties as required by participating insurance companies.

"§ 115C-538. Inspections of insured public school properties.—The State Board of Education shall provide for periodic inspections of all public school properties in the State of North Carolina insured under the provisions hereof, the said inspections for safety of buildings and particularly school buildings, against the loss or damage from fire and explosions. The inspections shall be the basis for offering such engineering advice as may be thought to be necessary to safeguard the children in the public schools from death and injury from school fires or explosions and to protect said school properties from loss, and the local boards of education shall be required so far as possible, and reasonable, to carry out and put into effect such recommendations in respect thereto as may be made by the State Board of Education.

"§ 115C-539. Information to be furnished prior to insuring in Fund; providing for payment of premiums.—Local boards of education shall at least 30 days before insuring in the Fund, furnish to the State Board of Education a complete and detailed list of all school buildings and contents thereof and other insurable school property, together with an estimate of the present value of the said property. Valuation for purposes of insuring in the Fund shall be reached by agreement in accordance with the procedure hereinafter set up for adjustment of losses. Local boards of education and the tax-levying authority shall be required to provide for the payment of premiums for insurance on the school properties of each local school administrative unit, respectively, to the extent of not less than seventy-five percent (75%) of the current insurable value of the said properties, including the insurance in fire insurance companies and the insurance provided by the Fund as set out herein.

"§ 115C-540. Determination and adjustment of premium rates; certificate as to insurance carried; no lapse; notice as to premiums required, and payment thereof.—The State Board of Education shall determine the annual premium rate to be charged for insurance of school properties as herein provided, which said rate shall not, however, be in excess of the rates fixed by law for insurance of such properties in effect on May 31, 1948, and such rates shall be adjusted from time to time so as to provide insurance against damage or loss resulting from fires, lightning, windstorm, hail or explosions resulting from defects in equipment in public school buildings and properties for the local school administrative units at the lowest cost possible in keeping with the payment of cost of administration of G.S. 115C-535 to G.S. 115C-542, and the creation of adequate reserves to pay losses which may be incurred. The State Board of Education shall furnish to each local school administrative unit annually and, at such times as changes may require, a certificate showing the amount of insurance carried on each item of insurable property. The said insurance shall not lapse but shall remain in force until the local board of education requests that said insurance be cancelled or until such property becomes uninsurable in the manner set out in G.S. 115C-542. From time to time the local board of education shall be notified as to the amount of the premiums required to be paid for said insurance and the amounts thereof shall be provided for in the annual budget of such schools. The tax-levying authorities shall provide by taxation or otherwise a sum sufficient to pay the required premiums thereon.

The local board of education shall within 30 days from notice thereof pay to the State Board of Education the premiums on such insurance, and in the event
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that there are no funds on hand at such time with which to make said payment, the same shall be paid out of the first funds available to such school board. Delayed payments shall bear interest at the rate of six percent (6%) per annum.

"§ 115C-541. Adjustment of losses; determination and report of appraisers; payment of amounts to treasurers of local school administrative units; disbursement of funds.—In the event of loss or damage by fire, lightning, windstorm, hail, or explosions resulting from defects in equipment in public school buildings and properties for the local school administrative units, the Fund shall pay the loss in the same proportion as the amount of insurance carried bore to the valuation of the property at the time it was insured, but not exceeding the amount which it would cost to repair or replace the property with material of like quality within a reasonable time after such loss, not in excess of the amount of insurance provided for said property, and not in excess of the amount of such loss which the Fund is required to pay in participation with fire insurance companies having policies of insurance in force on said properties at the time of the loss or damage, and the Fund shall not be liable for a greater proportion of any loss than the amount of insurance thereon shall bear to the whole insurance covering the property against the peril involved.

In the event of loss or damage by fire, lightning, windstorm, hail, or explosions resulting from defects in equipment in public school buildings and properties of the local school administrative units, to the property insured, when an agreement as to the extent of such loss or damage cannot be arrived at between the State Board of Education and the local officials having charge of the said property, the amount of such loss or damage shall be determined by three appraisers; one to be named by the State Board of Education, one by the local board of education having charge of the property, and the two so appointed shall select a third, all of whom shall be disinterested persons, and qualified from experience to appraise and value such property: Provided, however, if the appraisers appointed by the State Board of Education and the local board of education shall fail for 15 days to agree upon the third appraiser, then, on request of the State Board of Education or the local board of education having charge of the property, such third appraiser shall be selected by the resident judge of the superior court of the judicial district in which the property is located. The appraisers so named shall file their written report with the State Board of Education and with the local board of education having such property in charge. The costs of the appraisal shall be paid by the Fund. Upon the determination of the loss by the appraisers, the State Board of Education shall pay the amount of such loss or damage to school property in the control of the local school administrative unit to its treasurer, upon proper warrant of the State Board of Education. Said funds shall be paid out by the treasurer of said units, as provided by this Chapter for the disbursement of the funds of such unit.

"§ 115C-542. Maintenance of inspection and engineering service; cancellation of insurance.—The State Board of Education is authorized and empowered to maintain an inspection and engineering service deemed by it appropriate and necessary to reduce the hazards of fire in public school buildings insured in the Fund as hereinbefore provided, and to expend for such purpose not in excess of ten percent (10%) of the annual premiums collected from the local school authorities. The State Board of Education is hereby authorized and empowered to cancel any insurance on any school property when, in its opinion, because of
dilapidation and depreciation such property is no longer insurable. Before
cancellation, the local board of education shall be given at least 30 days notice,
and in the event said property can be restored to insurable condition, the State
Board of Education may make such orders with respect to the continuance of
such coverage as may be deemed proper: Provided, that the findings and results
of the inspection of local school property by the agents of the Board shall be
reported to local boards of education and to the board of county commissioners
of such units as carry insurance with the State 30 days before budget-making
time in order that all school property shall be properly taken care of and made
safe from fire hazards.
"§ 115C-543 to 115C-546: Reserved for future codification purposes.
"SUBCHAPTER X.
"Private and Proprietary Schools.
"ARTICLE 39.
"Nonpublic Schools.
"Part 1. Private Church Schools and Schools of Religious Charter.
"115C-547. Policy.—In conformity with the Constitutions of the United
States and of North Carolina, it is the public policy of the State in matters of
education that 'No human authority shall, in any case whatever, control or
interfere with the rights of conscience,' or with religious liberty and that
'religion, morality and knowledge being necessary to good government and the
happiness of mankind ... the means of education shall forever be encouraged.'
"115C-548. Attendance; health and safety regulations.—Each private
church school or school of religious charter shall make, and maintain annual
attendance and disease immunization records for each pupil enrolled and
regularly attending classes. Attendance by a child at any school to which this
Part relates and which complies with this Part shall satisfy the requirements of
compulsory school attendance: Provided, however, that such school operates on
a regular schedule, excluding reasonable holidays and vacations, during at least
ten calendar months of the year. Each school shall be subject to reasonable
fire, health and safety inspections by State, county and municipal authorities as
required by law.
"115C-549. Standardized testing requirements.—Each private church
school or school of religious charter shall administer, at least once in each
school year, a nationally standardized test or other nationally standardized
equivalent measurement selected by the chief administrative officer of such
school, to all students enrolled or regularly attending grades one, two, three, six
and nine. The nationally standardized test or other equivalent measurement
selected must measure achievement in the areas of English grammar, reading,
spelling and mathematics. Each school shall make and maintain records of the
results achieved by its students. For one year after the testing, all records shall
be made available, subject to the provision of G.S. 115C-196, at the principal
office of such school, at all reasonable times, for annual inspection by a duly
authorized representative of the State of North Carolina.
"115C-550. High school competency testing.—To assure that all high school
graduates possess those minimum skills and that knowledge thought necessary
to function in society, each private church school or school of religious charter
shall administer at least once in each school year, a nationally standardized test
or other nationally standardized equivalent measure selected by the chief
administrative officer of such school, to all students enrolled and regularly
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attending the 11th grade. The nationally standardized test or other equivalent measurement selected must measure competencies in the verbal and quantitative areas. Each private church school or school of religious charter shall establish a minimum score which must be attained by a student on the selected test in order to be graduated from high school. For one year after the testing, all records shall be made available, subject to the provision of G.S. 115C-196, at the principal office of such school, at all reasonable times, for annual inspection by a duly authorized representative of the State of North Carolina.

"§115C-551. Voluntary participation in the State programs.—Any such school may, on a voluntary basis, participate in any State operated or sponsored program which would otherwise be available to such school, including but not limited to the high school competency testing and statewide testing programs.

"§115C-552. New school notice requirements; termination.—(a) Any new school to which this Part relates shall send to a duly authorized representative of the State of North Carolina a notice of intent to operate, name and address of the school, and name of the school’s owner and chief administrator.

(b) Any school to which this Part applies shall notify a duly authorized representative of the State of North Carolina upon termination of the school.

"§115C-553. Duly authorized representative.—The duly authorized representative of the State of North Carolina to whom reports of commencing operation and termination shall be made and who may inspect certain records under this Part shall be designated by the Governor.

"§115C-554. Requirements exclusive.—No school, operated by any church or other organized religious group or body as part of its religious ministry, which complies with the requirements of this Part shall be subject to any other provision of law relating to education except requirements of law respecting fire, safety, sanitation and immunization.

"Part 2. Qualified Nonpublic Schools.

"§115C-555. Qualification of nonpublic schools.—The provisions of this Part shall apply to any nonpublic school which has one or more of the following characteristics:

(1) It is accredited by the State Board of Education.

(2) It is accredited by the Southern Association of Colleges and Schools.

(3) It is an active member of the North Carolina Association of Independent Schools.

(4) It receives no funding from the State of North Carolina.

"§115C-556. Attendance health and safety regulations.—Each qualified nonpublic school shall make, and maintain annual attendance and disease immunization records for each pupil enrolled and regularly attending classes. Attendance by a child at any school to which this Part relates and which complies with this Part shall satisfy the requirements of compulsory school attendance: Provided, however, that such school operates on a regular schedule, excluding reasonable holidays and vacations, during at least nine calendar months of the year. Each school shall be subject to reasonable fire, health and safety inspections by State, county and municipal authorities as required by law.

"§115C-557. Standarized testing requirements.—Each qualified nonpublic school shall administer, at least once in each school year, a nationally standardized test or other nationally standardized equivalent measurement
selected by the chief administrative officer of such school, to all students enrolled or regularly attending grades one, two, three, six and nine. The nationally standardized test or other equivalent measurement selected must measure achievement in the areas of English grammar, reading, spelling and mathematics. Each school shall make and maintain records of the results achieved by its students. For one year after the testing, all records shall be made available, subject to the provision of G.S. 115C-196, at the principal office of such school, at all reasonable times, for annual inspection by a duly authorized representative of the State of North Carolina.

"§ 115C-558. High School Competency Testing.—To assure that all high school graduates possess those minimum skills and that knowledge thought necessary to function in society, each qualified nonpublic school shall administer at least once in each school year, a nationally standardized test or other nationally standardized equivalent measure selected by the chief administrative officer of such school, to all students enrolled and regularly attending the 11th grade. The nationally standardized test or other equivalent measurement selected must measure competencies in the verbal and quantitative areas. Each qualified nonpublic school shall establish a minimum score which must be attained by a student on the selected test in order to be graduated from high school. For one year after the testing, all records shall be made available, subject to the provision of G.S. 115C-196, at the principal office of such school, at all reasonable times, for annual inspection by a duly authorized representative of the State of North Carolina.

"§ 115C-559. Voluntary participation in the State programs.—Any such school may, on a voluntary basis, participate in any State operated or sponsored program which would otherwise be available to such school, including but not limited to the high school competency testing and statewide testing programs.

"§ 115C-560. New school notice requirements; termination.—(a) Any new school to which this Part relates shall send to a duly authorized representative of the State of North Carolina a notice of intent to operate, name and address of the school, and name of the school's owner and chief administrator.

(b) Any school to which this Part applies shall notify a duly authorized representative of the State of North Carolina upon termination of the school.

"§ 115C-561. Duly authorized representative.—The duly authorized representative of the State of North Carolina to whom reports of commencing operation and termination shall be made and who may inspect certain records under this Part shall be designated by the Governor.

"§ 115C-562. Requirements exclusive.—No qualifying nonpublic school, which complies with the requirements of this Part, shall be subject to any other provision of law relating to education except requirements of law respecting fire, safety, sanitation and immunization.

"§ § 115C-563 to 115C-567: Reserved for future codification purposes.

"ARTICLE 40.

"Proprietary Schools.

"§ 115C-568. Definitions.—As used in this Article:

(1) 'Correspondence school' means an educational institution privately owned and operated by an owner, partnership or corporation conducted for the purpose of providing, by correspondence, for a consideration, profit, or tuition, systematic instruction in any field or teaches or instructs in any subject area through the medium of correspondence between the pupil and the school,
usually through printed or typewritten matter sent by the school and written responses by the pupil.

(2) 'Persons' means any individual, association, partnership or corporation, and includes any receiver, referee, trustee, executor, or administrator as well as a natural person.

(3) 'Private business school' or 'business school' or 'school' means an educational institution privately owned and operated by an owner, partnership or corporation, offering business courses for which tuition is charged, in such subjects as typewriting, manual or machine shorthand, filing and indexing, receptionist's duties, key-punch, teletype, penmanship, bookkeeping, accounting, office machines, business arithmetic, English, business letter writing, salesmanship, personality development, leadership training, public speaking, real estate, insurance, traffic management, business psychology, economics, business management, and other related subjects of a similar character or subjects of general education when they contribute value to the objective of the course of study. Classes in any of the subjects herein referred to which are taught or coached in homes or elsewhere to five or less students are not included in the term 'school' and shall be exempt from the requirements of this Article.

(4) 'Private trade school' means an educational institution privately owned and operated by an owner, partnership or corporation, offering classes conducted for the purpose of teaching, for profit or for a tuition charge, any trade, technical, mechanical or industrial occupation or teaching any or several of the subjects needed to train youths or adults in the skills, technical knowledge, related industrial information, and job judgment, necessary for success in one or more skilled trades, industrial occupations or related occupations.

"§115C-569. Exemptions.—It is the purpose of this Article to include all private schools operated for profit: provided, that the following schools shall be exempt from the provisions of this Article:

(1) Nonprofit schools conducted by bona fide eleemosynary or religious institutions.

(2) Schools maintained or classes conducted by employers for their own employees where no fee or tuition is charged.

(3) Courses of instruction given by any fraternal society, civic club, or benevolent order, which courses are not operated for profit.

(4) Any school for which there is another legally existing licensing board in this State.

(5) Any established university, professional, or liberal arts college, public or private high school approved by the Department of Public Instruction, or any State institution which has heretofore offered, or which may hereinafter offer one or more courses covered in this Article: Provided, that the tuition fees and charges, if any, made by such university, college, high school, or State institution shall be collected by their regular officers in accordance with the rules and regulations prescribed by the board of trustees or governing body of such university, college, high school, or State institution; but provisions of the Article shall apply to all business schools, trade schools, or correspondence schools or branch schools, as defined in this Article, and operated within the State of North Carolina as such institutions, except schools for which there are other legally existing licensing boards.
"§ 115C-570. State Board of Education to administer Article; issuance of diplomas by schools; investigation and inspection; regulations and standards.—
(a) The State Board of Education, acting by and through the Superintendent of Public Instruction, shall have authority to administer and enforce this Article and to issue licenses to private schools and educational institutions, as the same are defined herein, whose sustained curriculum is of a grade equal to that prescribed for similar public schools and educational institutions of the State and which have met the standards set forth by the Board, including but not limited to course offerings, adequate facilities, financial stability, competent personnel and legitimate operating practices.
(b) Any such private school or educational institution may by and with the approval of the State Board issue certificates and diplomas.
(c) The State Board, acting by and through the Superintendent of Public Instruction, shall formulate the criteria and the standards evolved thereunder for the approval of such schools or educational institutions, provide for adequate investigations of all schools applying for a license and issue licenses to those applicants meeting the standards fixed by the Board, maintain a list of schools approved under the provisions of this Article which list shall be available for the information of the public, and provide for periodic inspection of all schools licensed under the provisions of this Article. Through periodic reports required of licensed schools or branch schools and by inspections made by authorized representatives of the State Board of Education, the State Board of Education shall have general supervision over business, trade and correspondence schools in the State, the object of said supervision being to protect the health, safety and welfare of the public by having the licensed business, trade and correspondence schools maintain adequate, safe and sanitary school quarters, sufficient and proper facilities and equipment, sufficient and qualified teaching staff, and satisfactory programs of operation and instruction, and to have the school carry out its advertised promises and contracts made with its students and patrons. To this end the State Board of Education is authorized to issue such regulations and standards not inconsistent with the provisions of this Article as are necessary to administer the provisions of this Article.

"§ 115C-571. License required application for license; school bulletins; requirements for issuance of license; license restricted to courses indicated; supplementary applications.—(a) No person shall operate, conduct or maintain or offer to operate in this State a private school or educational institution as defined herein unless a license is first secured from the State Board of Education issued in accordance with the provisions of this Article and the rules and regulations promulgated by the Board under the authority of G.S. 115C-570. The license, when issued, shall constitute the formal acceptance by the Board of the educational programs and facilities of each private school approved.
(b) Application for a license shall be filed in the manner and upon the forms prescribed and furnished by the Superintendent of Public Instruction for that purpose. Such application shall be signed by the applicant and properly verified and shall contain such of the following information as may apply to the particular school or branch school, for which a license is sought:
(1) The title or name of the school or classes, together with the name and address of the owners and of the controlling officers thereof.
(2) The general field of instruction.
(3) The place or places where such instruction will be given.
(4) A specific listing of the equipment available for instruction in each field.
(5) The qualifications of instructors and supervisors.
(6) Financial resources available to equip and to maintain the school or classes.
(7) Such additional information as the State Board may deem necessary to enable it to determine the adequacy of the program of instruction and matters pertaining thereto. Each application shall be accompanied by a copy of the current bulletin or catalog of the school which shall be in published form and certified by an authorized official of the school as being true and correct in content and policy. The school bulletin shall contain the following information:
   a. Identifying data, such as volume number and date of publication.
   b. Names of the institution and its governing body, officials and faculty.
   c. A calendar of the institution showing legal holidays, beginning and ending date of each quarter, term or semester, and other important dates.
   d. Institution’s policy and regulations relative to leave, absences, class cuts, make-up work, tardiness and interruptions for unsatisfactory attendance.
   e. Institution’s policy and regulations on enrollment with respect to enrollment dates and specific entrance requirements for each course.
   f. Institution’s policy and regulations relative to standards of progress required of the student by the institution. This policy will define the grading system of the institution; the minimum grades considered satisfactory; conditions for interruption for unsatisfactory grades or progress and description of the probationary period, if any, allowed by the institution; and conditions of reenrollment for those students dismissed for unsatisfactory progress. A statement will be made regarding progress records kept by the institution and furnished the student.
   g. Institution’s policy and regulations relating to student conduct and conditions for dismissal for unsatisfactory conduct.
   h. Detailed schedule for fees, charges for tuition, books, supplies, tools, student activities, laboratory fees, service charges, rentals, deposits, and all other charges.
   i. Policy and regulations of the institution relative to the refund of the unused portion of tuition, fees and other charges in the event the student does not enter the course or withdraws or is discontinued therefrom.
   j. A description of the available space, facilities and equipment.
   k. A course outline for each course for which approval is requested, showing subjects or units in the course, type of skill or skill to be learned, and approximate time and clock hours to be spent on each subject or unit.
   l. Policy and regulations of the institution relative to granting credit for previous educational training.
(c) After due investigation and consideration on the part of the State Board as provided herein, a license shall be issued to the applicant when it is shown to the satisfaction of said Board that said applicant, school, programs of study or courses are found to have met the following criteria:

(1) The courses, curriculum and instruction are consistent in quality, content and length with similar courses in public schools and other private schools in the State, with recognized accepted standards.

(2) There is in the institution adequate space, equipment, instructional material and instructor personnel to provide training of good quality.

(3) Education and experience qualifications of director, administrators and instructors are adequate.

(4) The institution maintains a written record of the previous education and training of the student.

(5) A copy of the course outline, schedule of tuition, fees and other charges, regulations pertaining to absences, grading policy and rules of operation and conduct will be furnished the student upon enrollment.

(6) Upon completion of training, the student is given a certificate or diploma by the institution indicating the approved course and indicating that training was satisfactorily completed.

(7) Adequate records as prescribed by the State Board of Education are kept to show attendance and progress or grades and satisfactory standards relating to attendance, progress and conduct are enforced.

(8) The school complies with all local, city, county, municipal, State and federal regulations, such as fire codes, building and sanitation codes. The State Board of Education may require such evidence of compliance as is deemed necessary.

(9) The school is financially sound and capable of fulfilling its commitments for training.

(10) The school does not exceed its enrollment limitation as established by the State Board of Education.

(11) The school does not utilize advertising of any type which is erroneous or misleading, either by actual statement, omission or intimation.

(12) The school's administrators, directors, owners and instructors are of good reputation and character.

(13) Such additional criteria as may be deemed necessary by the State Board.

(d) Any license issued shall be restricted to the programs of instruction or courses specifically indicated in the application for a license. The holder of a license shall present a supplementary application as may be directed by the State Superintendent for approval of additional programs of instruction or courses in which it is desired to offer instruction during the effective period of the license.

"§ 115C-572. Duration and renewal of licenses; notice of change of ownership, administration, etc.; license not transferable.-(a) All licenses issued shall expire on June 30 next following the date of issuance.

(b) Licenses shall be renewable annually on July 1: Provided, an application for the renewal of the license has been filed in the form and manner prescribed by the State Board and the renewal fee has been paid: Provided, further that the school and its courses, facilities, faculty and all other operations are found
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to meet the criteria set forth in the requirements for a school to secure an original license.

c) After a license is issued to any school by the State Board of Education on the basis of its application, it shall be the responsibility of said school to notify immediately said Board of any changes in the ownership, administration, location, faculty, the instructional program or other changes as may affect significantly the course of instruction offered.

d) In the event of the sale of such school, the license already granted to the original owner or operators thereof shall not be transferable to the new ownership or operators.

"§ 115C-573. Commercial Education Fund established; refund of fees.—The fees and licenses collected under this section shall be placed in a special fund to be designated the 'Commercial Education Fund' and shall be used under the supervision and direction of the State Board of Education for the administration of this Article. No license fee shall be refunded in the event the application is rejected or the license suspended or revoked.

"§ 115C-574. Suspension, revocation or refusal of license; notice and hearing; judicial review; grounds.—(a) The State Board, acting by and through the Superintendent of Public Instruction, shall have the authority to refuse to issue a license and to suspend or revoke a license theretofore issued but before denying any such license, including the renewal thereof, and before suspending or revoking any license theretofore issued, he shall afford the applicant or holder of any such license an opportunity to be heard in connection therewith in person or by counsel and at least 30 days prior to the date set for a hearing on any such matter shall notify in writing the applicant for or the holder of any such license of the date of said hearing and assign therein the grounds for the action contemplated to be taken and as to which inquiry shall be made on the date of such hearing.

(b) The action of the State Board acting by and through the Superintendent of Public Instruction in refusing to grant a license or to renew a license, or in suspending or revoking a license, shall be subject to judicial review in all respects according to the provisions and procedure set forth in Chapter 150A of the General Statutes of North Carolina.

(c) The State Board, acting by and through the Superintendent of Public Instruction, shall have the power to refuse to issue or renew any such license and to suspend or revoke any such license theretofore issued in case it finds one or more of the following:

(1) That the applicant for or holder of such a license has violated any of the provisions of this Article or any of the rules and regulations promulgated thereunder.

(2) That the applicant for or holder of such a license has knowingly presented to the State Board of Education false or misleading information relating to approval.

(3) That the applicant for or holder of such a license has failed or refused to permit authorized representatives of the State Board of Education to inspect the school, or has refused to make available to them at any time upon request full information pertaining to matters within the purview of the State Board of Education under the provisions of this Article.

(4) That the applicant for or holder of such a license has perpetrated or committed fraud or deceit in advertising the school or in presenting to
the prospective students written or oral information relating to the school, to employment opportunities, or to opportunities for enrollment in other institutions upon completion of the instruction offered in the school.

(5) That the applicant or licensee has pleaded guilty, entered a plea of nolo contendere or has been found guilty of a crime involving moral turpitude by a judge or jury in any state or federal court.

(6) That the applicant or licensee has failed to provide or maintain premises, equipment or conditions which are adequate, safe and sanitary, in accordance with such standards of the State of North Carolina or any of its political subdivisions, as are applicable to such premises and equipment.

(7) That the licensee is employing teachers, supervisors or administrators who have not been approved by the State Board.

(8) That the licensee has failed to provide and maintain adequate premises, equipment, materials or supplies, or has exceeded the maximum enrollment for which the school or class was licensed.

(9) That the licensee has failed to provide and maintain adequate standards of instruction or an adequate and qualified administrative, supervisory or teaching staff.

“§ 115C-575. Private schools advisory committee; appointment; duties.—(a) In the administration of this Article, the Superintendent of Public Instruction shall appoint an advisory committee composed of not less than five members who shall serve at his will and pleasure and who are fairly representative of the types of private schools or educational institutions operated, conducted and maintained within this State, whose duties shall be to advise the Superintendent of Public Instruction regarding the criteria to be used in formulating standards and the rules and regulations thereunder to be prescribed for the administration of this Article and the management and operation of the schools subject to the provisions hereof including the development of programs of instruction to be pursued in each type of institution subject to this Article.

(b) The terms of the members shall be set by the Superintendent of Public Instruction.

“§ 115C-576. Execution of bond required; filing and recording; actions upon bond.—(a) Before the State Board of Education shall issue such license the person, partnership, association of persons, or corporation shall execute a bond in the sum of one thousand dollars ($1,000), signed by a solvent guaranty company authorized to do business in the State of North Carolina, or by two solvent individual sureties, payable to the State of North Carolina, and approved as to solvency by the clerk of the superior court of the county in which such school or branch school will be located and conduct its business, conditioned that the principal in said bond will carry out and comply with each and every contract, made and entered into by said school or branch school, acting by and through its officers and agents with any student who desires to enter said school or branch school and to take any courses offered therein and will pay back to such student all amounts collected in tuition and fees in case of failure on the part of the parties obtaining a license from the State Board of Education to open and conduct a business school, trade school or a correspondence school, to comply with its contracts to give the instructions contracted for, and for full period evidenced by such contract. Such bond shall
be filed with the clerk of the superior court of the county in which the school or branch school executing the bond is located, and shall be recorded by such clerk in a book provided for that purpose.

(b) The requirement herein specified for giving the aforesaid bond of one thousand dollars ($1,000) shall apply to all business, trade or correspondence schools, or any branches thereof operating in North Carolina, and the State Board of Education shall not issue any license to any person, firm or corporation to operate any of the aforesaid schools until said bond has been given and notice of the approval of same by the clerk of the superior court has been filed with said Board of Education. Operator bonds of one thousand dollars ($1,000) each shall be required for each branch of such business, trade, correspondence schools, or any branch thereof operated within the State by any person, partnership or corporation.

(c) In any and all cases where the party receiving the license from the State Board of Education fails to comply with any contract made and entered into with any student, or with the parents or guardian of said student, then the State of North Carolina upon the relation of said student, parent or guardian entering into the contract shall have a cause of action against the principal and sureties on the bonds herein provided for the full amount of payments made to such person, with six percent (6%) interest from the date of payment of said amount. For a violation of its contract with a student, or for other good cause, the State Board of Education is authorized to revoke the license issued to the offending school.

"§ 115C-577. Operating school without license or bond made misdemeanor.—Any person, or each member of any association of persons or each officer of any corporation who opens and conducts a business school, a trade school or a correspondence school, or branch school as defined in this Article, without first having obtained the license herein required, and without first having executed the bond required, shall be guilty of a misdemeanor and be punishable by a fine of not less than one hundred dollars ($100.00), nor more than five hundred dollars ($500.00) or 30 days imprisonment, or both, at the discretion of the court, and each day said school continues to be open and operated shall constitute a separate offense.

"§ 115C-578. Contracts with unlicensed schools and evidences of indebtedness made null and void.—All contracts entered into by business, trade or correspondence schools, or branch school, as defined in this Article, with students or prospective students, and all promissory notes or other evidence of indebtedness taken in lieu of cash payments by such schools shall be null and void unless such schools are duly licensed as required by this Article."

"§ 115C-579 to 115C-583: Reserved for future codification purposes."

Sec. 2. Chapter 78 of the 1981 Session Laws is hereby repealed.

Sec. 3. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 20th day of May, 1981.
H. B. 495  CHAPTER 424
AN ACT TO PROVIDE THAT COURT-ORDERED LICENSE SUSPENSION ACTIONS FOR VIOLATORS OF WILDLIFE LAWS WILL SUPERSEDE ADMINISTRATIVE SUSPENSIONS BY THE NORTH CAROLINA WILDLIFE RESOURCES COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-276.3 is amended by adding a new subsection to read as follows:
“(e) Unless otherwise provided in the judgment, any action by a court under G.S. 113-277 to suspend entitlement to a license or permit or to suspend or revoke a license or permit supersedes any suspension of entitlement to a license or permit mandated by this section. If the judgment of the court after a conviction for suspension offense does not include any suspension or revocation action, the provisions of this section apply.”

Sec. 2. G.S. 113-277(a2) is rewritten to read as follows:
“(a2) A suspension or revocation by a court under this section may be ordered to run concurrently or consecutively with any suspension under G.S. 113-276.3 or any action under G.S. 113-276.2. If no provision is made, G.S. 113-276.3(e) applies, but action by the Executive Director or the Wildlife Resources Commission under G.S. 113-276.2 may not be preempted.”

Sec. 3. This act takes effect on ratification and applies to abrogate all suspensions of entitlement to licenses and permits then in effect under G.S. 113-276.3(d) that violate the terms of this act.

In the General Assembly read three times and ratified, this the 21st day of May, 1981.

H. B. 752  CHAPTER 425
AN ACT TO CLARIFY DISTRICT COURT JUDGES AUTHORITY TO ISSUE SECURE AND NONSECURE CUSTODY ORDERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-573 is amended by rewriting the second paragraph to read: “Any district court judge shall have the authority to issue secure and nonsecure custody orders pursuant to G.S. 7A-574. The chief district judge may delegate the court’s authority to persons other than district court judges by administrative order which shall be filed in the office of the clerk of superior court. The administrative order shall specify which persons shall be contacted for approval of a secure or nonsecure custody order pursuant to G.S. 7A-574 and may include intake counselors and other members of the chief court counselor’s staff.”

Sec. 2. This act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 21st day of May, 1981.
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H. B. 772    CHAPTER 426

AN ACT TO CLARIFY THE JUVENILE CODE AND TO PERMIT SECURE CUSTODY IN ADDITIONAL CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-574(b)(1) is deleted and all the other subdivisions in subsection (b) are renumbered accordingly.

Sec. 2. G.S. 7A-574(b)(9), as it appears in the 1979 Supplement to Volume 1B of the General Statutes, is rewritten to read:
“(8) That the juvenile alleged to be undisciplined by virtue of his being a runaway may be detained for a period of no more than 72 hours to facilitate evaluation of the juvenile’s need for medical or psychiatric treatment or to facilitate reunion with his parents.”

Sec. 3. G.S. 7A-574(c) is amended by adding a new sentence to the end to read:
“The judge may also order secure custody for a juvenile who is alleged to have violated the terms of his probation or conditional release.”

Sec. 4. G.S. 7A-574(d) is amended by deleting in the second sentence the phrase “(b) and (c)” and by substituting the phrase “(b) or (c)”.

Sec. 5. This act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 21st day of May, 1981.

H. B. 843    CHAPTER 427

AN ACT TO REPEAL THE TERMINATION DATE OF CHAPTER 89A OF THE GENERAL STATUTES RELATING TO LANDSCAPE ARCHITECTS.

The General Assembly of North Carolina enacts:

Section 1. Section 7 of Chapter 872 of the Session Laws of 1979 is hereby repealed.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of May, 1981.

H. B. 859    CHAPTER 428

AN ACT REGARDING BOND REQUIREMENT WHEN THE PERSONAL REPRESENTATIVE OF AN ESTATE RECEIVES ALL THE PROPERTY OF THE DECEDED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 28A-8-1(b)(7) is rewritten to read as follows:
“(7) A personal representative where he receives all the property of the decedent.”

Sec. 2. This act is effective upon ratification and applies to estates of persons dying on or after that date.

In the General Assembly read three times and ratified, this the 21st day of May, 1981.

696
H. B. 269  

CHAPTER 429

AN ACT TO PROHIBIT THE USE OF CITATION QUOTAS BY THE STATE HIGHWAY PATROL.

The General Assembly of North Carolina enacts:

Section 1. Article 4 of Chapter 20 of the General Statutes is amended by adding G.S. 20-187.3 to read as follows:

"§ 20-187.3. Quotas prohibited.—The Secretary of Crime Control and Public Safety shall not make or permit to be made any order, rule, or regulation requiring the issuance of any minimum number of traffic citations, or ticket quotas, by any member or members of the State Highway Patrol. Pay and promotions of members of the Highway Patrol shall be based on their overall job performance and not on the basis of the volume of citations issued or arrests made."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of May, 1981.

H. B. 779  

CHAPTER 430

AN ACT TO AMEND G.S. CHAPTER 9 TO FACILITATE THE JUROR SELECTION PROCESS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 9-2 is amended by adding the following sentence at the end of the first paragraph thereof:

"In counties in which a different panel of jurors is summoned for each day of the week, there is no limit to the number of names that may be placed on the juror list."

Sec. 2. G.S. 9-6(b) is amended by adding the following sentence at the end thereof:

"In districts that have a trial court administrator, the chief district judge may assign the duty of passing on applications for excuses from jury service to the administrator. In all cases concerning excuses, the clerk of court or the trial court administrator in districts that have a trial court administrator, shall notify prospective jurors of the disposition of their excuses."

Sec. 3. G.S. 9-2.1. is amended by inserting in the first sentence, after "having" and before "electronic" the words "access to".

Sec. 4. G.S. 9-6.1, as amended by Chapter 9, Session Laws of 1981, is further amended by deleting in both places the words "judge designated by him pursuant to G.S. 9-6(b)", and inserting in each place in lieu thereof the words "judge or trial court administrator designated by him pursuant to G.S. 9-6(b)".

Sec. 5. G.S. 9-6.1 is amended by inserting in the last sentence following the word "notified" the following phrase: "by the trial court administrator or the clerk of court."

Sec. 6. This act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 21st day of May, 1981.
CHAPTER 431    Session Laws—1981

H. B. 885   CHAPTER 431

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF WAYNESVILLE AND TO REPEAL PRIOR LOCAL ACTS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Waynesville is hereby revised and consolidated to read as follows:

"THE CHARTER OF THE TOWN OF WAYNESVILLE.

"ARTICLE I.

"Incorporation, Corporate Powers and Boundaries.

"Sec. 1.1. Incorporation. The Town of Waynesville, North Carolina, in the County of Haywood, and the inhabitants thereof, shall continue to be a municipal body politic and corporate, under the name and style of the 'Town of Waynesville', hereinafter at times referred to as the 'Town'.

"Sec. 1.2. Powers. The Town of Waynesville shall have and may exercise all of the powers, duties, rights, privileges and immunities which are now or hereafter may be conferred, either expressly or by implication, upon the Town of Waynesville specifically or upon municipal corporations generally by this Charter, by the State Constitution, or by general or local law.

"Sec. 1.3. Corporate Limits. The corporate limits of the Town of Waynesville shall be those existing at the time of ratification of this Charter, as the same are now or hereafter may be constituted pursuant to law. An official map or description of the Town, showing the current Town boundaries, shall be maintained permanently in the office of the Town Clerk, and shall be available for public inspection. Immediately upon alteration of the corporate limits pursuant to law, the appropriate changes to the official map or description of the Town shall be made.

"ARTICLE II.

"Mayor and Board of Aldermen.

"Sec. 2.1. Governing Body. The Mayor and Board of Aldermen, elected and constituted as herein set forth, shall be the governing body of the Town. On behalf of the Town, and in conformity with applicable laws, the Mayor and Board may provide for the exercise of all municipal powers, and shall be charged with the general government of the Town.

"Sec. 2.2. Mayor; Terms of Office; Duties. The Mayor shall be elected by and from the qualified voters of the Town for a term of four years, in the manner provided by Article III of this Charter; provided, the Mayor shall serve until his successor is elected and qualified. The Mayor shall be the official head of the Town government, shall preside at all meetings of the Board of Aldermen, and shall have the powers and duties of Mayor as prescribed by this Charter and the General Statutes. The Mayor shall have the right to vote on all matters before the Board.

"Sec. 2.3. Board of Aldermen; Terms of Office. The Board of Aldermen shall be composed of four members, each of whom shall be elected for terms of four years, in the manner provided by Article III of this Charter; provided, Board members shall serve until their successors are elected and qualified.

"Sec. 2.4. Mayor Pro Tempore. In accordance with applicable State laws, the Board of Aldermen shall appoint one of its members to act as Mayor pro tempore to perform the duties of the Mayor in the Mayor's absence or disability. The Mayor pro tempore as such shall have no fixed term of office,
but shall serve in such capacity at the pleasure of the remaining members of the Board.

"Sec. 2.5. Meetings of the Board. In accordance with applicable State laws, the Board shall establish a suitable time and place for its regular meetings. Special meetings may be held according to applicable provisions of the General Statutes.

"Sec. 2.6. Ordinances and Resolutions. The adoption, amendment, repeal, pleading, or proving of Town ordinances and resolutions shall be in accordance with applicable provisions of the General Statutes of North Carolina not inconsistent with this Charter. Except as otherwise provided by law, all ordinances shall become effective upon adoption; provided, an ordinance may, by its own terms, specify some other time upon which it shall take effect. The enacting clause of all Town ordinances shall be: 'Be it ordained by the Board of Aldermen of the Town of Waynesville'.

"Sec. 2.7. Voting Requirements; Quorum; Emergency Measures. Official action of the Board shall, except as otherwise provided by law, be by majority vote, provided that a quorum, consisting of a majority of the actual membership of the Board, is present. Vacant seats are to be subtracted from the normal Board membership to determine the actual membership.

"Sec. 2.8. Qualifications for Office; Vacancies; Compensation. The compensation of Board members, the filling of vacancies on the Board, and the qualifications of Board members shall be in accordance with applicable provisions of the General Statutes.

"ARTICLE III.

"Elections.

"Sec. 3.1. Regular Municipal Elections; Conduct. Regular municipal elections shall be held in the Town every four years in odd-numbered years, and shall be conducted in accordance with the uniform municipal election laws of North Carolina. The Mayor and members of the Board shall be elected according to the nonpartisan election method.

"Sec. 3.2. Election of the Mayor. At the regular municipal election in 1983, and every four years thereafter, there shall be elected a mayor and four aldermen to serve a term of four years.

"ARTICLE IV.

"Organization and Administration.

"Sec. 4.1. Form of Government. The Town shall operate under the Council-Manager form of government, in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Sec. 4.2. Town Manager. The Board of Aldermen shall appoint a Town Manager who shall be the administrative head of Town government, and who shall be responsible to the Board for the proper administration of the affairs of the Town. The Town Manager shall hold office at the pleasure of the Board of Aldermen, and shall receive such compensation as the Board shall determine. In exercising his duties as chief administrator, the manager shall:

1. Appoint and suspend or remove all Town officers and employees not elected by the people, except the Town Attorney and those whose appointment or removal is otherwise provided for by law, in accordance with such general personnel rules, regulations, policies or ordinances as the Board may adopt.
(2) Report to the Board of Aldermen each appointment or removal of an officer or employee at the next Board meeting following such appointment or removal.

(3) Direct and supervise the administration of all departments, offices, and agencies of the Town, subject to the general direction and control of the Board, except as otherwise provided by law.

(4) Attend all meetings of the Board, unless excused therefrom, and recommend any measures that he deems expedient.

(5) Prepare and submit the annual budget and capital program to the Board.

(6) Keep the Board fully advised as to the financial condition of the Town and annually submit to the Board, and make available to the public, a complete report on the finances and administrative activities of the Town at the end of the fiscal year.

(7) Make any other reports that the Board may require concerning the operation of the Town departments, offices and agencies subject to his direction and control.

(8) Perform any other duties that may be required or authorized by the Board, or as required by law.

"Sec. 4.3. Town Attorney. The Board of Aldermen shall appoint a Town Attorney who shall be licensed to engage in the practice of law in the State of North Carolina. Upon request by the Board of Aldermen, it shall be the duty of the Town Attorney to defend suits against the Town; to advise the Mayor, Board of Aldermen and other Town officials with respect to the affairs of the Town; to draft legal documents relating to the affairs of the Town; to inspect and pass upon agreements, contracts, franchises and other instruments with which the Town may be concerned; to attend meetings of the Board of Aldermen, and to perform other duties as the Board may direct.

"Sec. 4.4. Town Clerk. The Town Manager shall appoint a Town Clerk to keep a journal of the proceedings of the Board, to maintain in a safe place all records and documents pertaining to the affairs of the Town, and to perform such other duties as may be required by law or as the Board of Aldermen may direct.

"Sec. 4.5. Town Finance Officer. The Town Manager shall appoint a Town Finance Officer to perform the duties of the finance officer as required by the Local Government Budget and Fiscal Control Act.

"Sec. 4.6. Town Tax Collector. The Town Manager shall appoint a Town Tax Collector to collect all taxes, licenses, fees and other revenues accruing to the Town, subject to the General Statutes, the provisions of this Charter and the ordinances of the Town. The Town Tax Collector shall diligently comply with and enforce all the laws of North Carolina relating to the collection of taxes and other revenues by municipalities.

"Sec. 4.7. Consolidation of Functions. The Board of Aldermen may provide for the consolidation of any two or more positions of Town Manager, Town Clerk, Town Tax Collector and Town Finance Officer, or may assign the functions of any one or more of these positions to the holder or holders of any other of these positions, subject to the Local Government Budget and Fiscal Control Act.

"Sec. 4.8. Other Administrative Officers and Employees. Consistent with applicable State laws, the Board of Aldermen may establish other positions, provide for the appointment of other administrative officers and employees,
and generally organize the Town government in order to promote the orderly and efficient administration of the affairs of the Town.

"ARTICLE V.

"Public Improvements.

"Sec. 5.1. Assessments for Street and Sidewalk Improvements; Petition Unnecessary.

(a) In addition to any authority which is now or hereafter may be granted by general law to the Town for making street improvements, the Board of Aldermen is hereby authorized to make street improvements and to assess the cost thereof against abutting property owners in accordance with the provisions of this section.

(b) The Board of Aldermen may order street improvements and assess the cost thereof against the abutting property owners, exclusive of the costs incurred at street intersections, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes without the necessity of a petition, upon the finding by the Board as a fact:

(1) That the street improvement project does not exceed 2,000 linear feet, and
(2) That such street or part thereof is unsafe for vehicular traffic, and it is in the public interest to make such improvements, or
(3) That it is in the public interest to connect two streets, or portions of a street already improved, or
(4) That it is in the public interest to widen a street, or part thereof, which is already improved, provided, that assessments for widening any street or portion of street without a petition shall be limited to the cost of widening and otherwise improving such streets in accordance with the street classification and improvement standards established by the Town’s thoroughfare or major street plan for the particular street or part thereof to be widened and improved under the authority granted by this Article.

(c) For the purpose of this Article, the term 'street improvement' shall include grading, regrading, surfacing, resurfacing, widening, paving, repaving, the acquisition of right-of-way, and the construction or reconstruction of curbs, gutters and street drainage facilities.

(d) In addition to any authority which is now or may hereafter be granted by general law to the Town for making sidewalk improvements, the Board is hereby authorized without the necessity of a petition, to make or to order to be made sidewalk improvements or repairs according to standards and specifications of the Town, and to assess the total cost thereof against abutting property owners, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes; provided however, that regardless of the assessment basis or bases employed, the Board of Aldermen may order the cost of sidewalk improvements made only on one side of a street to be assessed against property owners abutting both sides of such street.

(e) In ordering street and sidewalk improvements without a petition and assessing the cost thereof under authority of this Article, the Board shall comply with the procedure provided by Article 10, Chapter 160A of the General
Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.

(f) The effect of the act of levying assessments under the authority of this Article shall for all purposes be the same as if the assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes.

Sec. 2. This act shall not be deemed to repeal, modify, or in any manner affect any of the following acts, portions of acts, or amendments thereto, whether or not such acts, portions of acts, or amendments are expressly set forth herein:

(1) Any acts concerning the property, affairs, or government of public schools in the Town of Waynesville;

(2) Any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

Sec. 3. The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act are hereby repealed:

Chapter LXI, Private Laws of 1810
Chapter CLXV, Private Acts of 1832-33
Chapter 31, Private Laws of 1870-71
Chapter 116, Private Laws of 1856-57
Chapter 127, Private Laws of 1885
Chapter 132, Private Laws of 1887
Chapter 464, Public Laws of 1889
Chapter 156, Private Laws of 1893
Chapter 331, Private Laws of 1895
Chapter 119, Private Laws of 1899
Chapter 132, Private Laws of 1899
Chapter 234, Private Laws of 1899
Chapter 64, Private Laws of 1901
Chapter 71, Private Laws of 1901
Chapter 307, Private Laws of 1901
Chapter 42, Private Laws of 1903
Chapter 81, Private Laws of 1905
Chapter 88, Private Laws of 1905
Chapter 198, Private Laws of 1905
Chapter 389, Private Laws of 1905
Chapter 143, Private Laws of 1907
Chapter 628, Public Laws of 1907
Chapter 45, Private Laws of 1909
Chapter 376, Private Laws of 1909
Chapter 32, Private Laws of 1911
Chapter 72, Private Laws of 1911
Chapter 391, Private Laws of 1911
Chapter 434, Private Laws of 1911
Chapter 237, Private Laws of 1913
Chapter 416, Private Laws of 1913
Chapter 156, Private Laws of 1915
Chapter 183, Private Laws of 1915
Chapter 209, Private Laws of 1915
Chapter 231, Private Laws of 1915
Chapter 58, Private Laws of Extra Session 1920
Chapter 23, Private Laws of 1921
Chapter 243, Private Laws of 1921
Chapter 28, Private Laws of Extra Session 1921
Chapter 124, Private Laws of Extra Session 1921
Chapter 45, Private Laws of 1923
Chapter 31, Private Laws of 1929
Chapter 74, Private Laws of 1931
Chapter 288, Public-Local Laws of 1933, as to Waynesville
Chapter 31, Private Laws of 1933
Chapter 159, Private Laws of 1933, as to Waynesville
Chapter 239, Private Laws of 1935
Chapter 255, Private Laws of 1935
Chapter 122, Public-Local Laws of 1937
Chapter 379, Public-Local Laws of 1937
Chapter 105, Public-Local Laws of 1939
Chapter 749, Session Laws of 1943
Chapter 319, Session Laws of 1947
Chapter 707, Session Laws of 1947, as to Waynesville
Chapter 42, Session Laws of 1949
Chapter 309, Session Laws of 1949
Chapter 725, Session Laws of 1953
Chapter 952, Session Laws of 1953
Chapter 617, Session Laws of 1955
Chapter 618, Session Laws of 1955
Chapter 1221, Session Laws of 1955
Chapter 251, Session Laws of 1961
Chapter 110, Session Laws of 1965

Sec. 4. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests, whether public or private:

(1) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act;

(2) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken pursuant to or within the scope of any provisions of law repealed by this act.

Sec. 5. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(1) The repeal herein of any act repealing such law; or

(2) Any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

Sec. 6. (a) All existing ordinances and resolutions of the Town of Waynesville and all existing rules or regulations of departments or agencies of the Town of Waynesville not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified or amended.

(b) No action or proceeding of any nature, whether civil or criminal, judicial or administrative, or otherwise, pending at the effective date of this act by or against the Town of Waynesville or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.
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Sec. 7. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 8. Whenever a reference is made in this act to a particular provision of the General Statutes, and such provision is later amended, repealed or superseded, the reference shall be deemed amended to refer to the amended General Statute, or the General Statute which most clearly corresponds to the statutory provision which is repealed or superseded.

Sec. 9. All ordinances, resolutions, orders or actions of any kind taken by the governing body of the Town of Waynesville from and after May 14, 1974, are hereby validated and ratified.

Sec. 10. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of May, 1981.

S. B. 296  CHAPTER 432

AN ACT TO CREATE THE CRIME OF IMPersonATION OF FIREMEN AND EMERGENCY MEDICAL SERVICES PERSONNEL.

The General Assembly of North Carolina enacts:

Section 1. A new section is added to the General Statutes to read:

"§ 14-276. Impersonation of firemen or emergency medical services personnel.—It is a misdemeanor, punishable by imprisonment not to exceed 30 days, for any person, with intent to deceive, to impersonate a fireman or any emergency medical services personnel, whether paid or voluntary, by a false statement, display of insignia, emblem, or other identification on his person or property, or any other act, which indicates a false status of affiliation, membership, or level of training or proficiency, if:

(1) the impersonation is made with intent to impede the performance of the duties of a fireman or any emergency medical services personnel, or

(2) any person reasonably relies on the impersonation and as a result suffers injury to person or property.

For purposes of this section, emergency medical services personnel means an ambulance attendant, emergency medical technician, emergency medical technician intermediates, emergency medical technician paramedics, or other member of a rescue squad or other emergency medical organization."

Sec. 2. This act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 21st day of May, 1981.
S. B. 389  
**CHAPTER 433**

AN ACT TO ALLOW STANLY AND MECKLENBURG COUNTIES TO ESTABLISH VOTING PRECINCTS WITHOUT REGARD TO TOWNSHIP BOUNDARIES.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of G.S. 163-128, a county board of elections may divide a county into precincts for the purpose of voting without regard to township boundaries.

Sec. 2. This act applies to Stanly and Mecklenburg Counties only.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of May, 1981.

S. B. 415  
**CHAPTER 434**

AN ACT TO REWRITE G.S. 163-112 TO PROVIDE FOR THE FILLING OF VACANCY DUE TO DEATH OF A CANDIDATE OCCURRING AFTER THE FILING PERIOD CLOSES AND BEFORE THE PRIMARY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-112 is hereby rewritten to read:

"§ 163-112. Death of candidate before primary; vacancy in single office.—(a) If at the time the filing period closes, only two persons have filed notice of candidacy for nomination by a political party to a single office, and one of the candidates dies within 30 days after the filing period closes, then the proper board of elections shall, upon notice of the death, reopen the filing period for that party contest, for an additional three days. Should no candidate file during the three days, the board of elections shall certify the remaining candidate as the nominee of his party as provided in G.S. 163-110.

(b) If at the close of the filing period more than two candidates have filed for a single office, and within 30 days after the filing period closes the board of elections receives notice of a candidate’s death, the board shall immediately open the filing period for that party contest, for three additional days in order for candidates to file for that office. The name of the deceased candidate shall not be printed on the ballot.

In the event a candidate’s death occurs more than 30 days after the closing of the original filing period, the names of the remaining candidates shall be printed on the ballot. If the ballots have been printed at the time death occurs, the ballots shall not be reprinted and any votes cast for a deceased candidate shall not be counted or considered for any purpose. In the event the death of a candidate or candidates leaves only one candidate, then such candidate shall be certified as the party’s nominee for that office.

(c) Vacancy in Group Offices Within 30 Days After the Filing Period Closes. If at the time the filing period closes more persons have filed notice of candidacy for nomination by a political party to an office constituting a group than there are positions to be filled, and a candidate or candidates dies within 30 days after the filing period closes, and there remains only the number of candidates equal to or fewer than the number of positions to be filled, the appropriate board of elections shall reopen the filing period for that party contest, for three days for that office. Should no persons file during the three-
day period, then those candidates already filed shall be certified as the party nominees for that office.

(d) Vacancy in Group Offices More Than 30 Days After the Filing Period Closes. In the event a candidate or candidates death occurs more than 30 days after the original filing period closes for an office constituting a group, then regardless of the number of candidates filed for nomination, the board of elections shall be governed as follows:

(1) If the ballots have not been printed at the time the board of elections receives notice of the death, the deceased candidate's name shall not be printed on the ballot.

(2) If the ballots have been printed at the time the board of elections receives notice of the death, the ballots shall not be reprinted but votes cast for the deceased candidate shall not be counted for any purpose.

(3) In the event the death of a candidate or candidates results in the number of candidates being equal to or less than the number of positions to be filled for that office, then the remaining candidates shall be certified as the party nominees for that office and no primary shall be held for that office.

(4) If death, resignation or disqualification of candidates results in the number of candidates being less than the number of positions to be filled for that office, then the appropriate party executive committee shall, in accordance with G.S. 163-114, make nominations of persons equal to the number of positions to be filled and no primary shall be held and those names shall be printed on the general election ballot."

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 21st day of May, 1981.

S. B. 364

CHAPTER 435

AN ACT TO EXEMPT THE MUSEUM OF NATURAL HISTORY FROM G.S. 147-50.

The General Assembly of North Carolina enacts:

Section 1. G.S. 147-50 is amended by adding the following sentence at the end thereof:

"Except for reports, bulletins, and other publications issued for free distribution, this section shall not apply to the Museum of Natural History."

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 21st day of May, 1981.
H. B. 472

CHAPTER 436

AN ACT TO PROHIBIT THE USE OF TRAPS LARGER THAN MUSKRAT TRAPS ON DRY LAND IN CAMDEN COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-291.6(d) is amended by rewriting the first sentence to read:

"Trap number 330 of the connibear type or size, trap number 220 of the connibear type or size, and the steel leghold number 2 size trap may only be set in the water and in areas in which beaver and otter may be trapped lawfully."

Sec. 2. This act applies to Camden County only.
Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1981.

H. B. 624

CHAPTER 437

AN ACT TO ALLOW INTERGOVERNMENTAL SALES OR LEASES OF REAL OR PERSONAL PROPERTY WITHOUT PROCEDURAL RESTRICTION WHERE NEW HANOVER COUNTY OR A CITY OR TOWN WITHIN THAT COUNTY IS A PARTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-274 is amended by adding a new subsection to read:

"(d) Any action taken under this section shall not be subject to G.S. 160A-266 through G.S. 160A-273."

Sec. 2. This act applies only to New Hanover County, and to cities and towns within that county.
Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1981.

H. B. 647

CHAPTER 438

AN ACT TO AMEND THE CHARTER OF THE CITY OF WILMINGTON TO AUTHORIZE ECONOMIC DEVELOPMENT PROJECTS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 495 of the Session Laws of 1977, being the Charter of the City of Wilmington, is amended by adding a new Article numbered XXXI to read as follows:

"ARTICLE XXXI.
"Economic Development Projects.

"Sec. 31.1. Economic Development Projects. (a) Definition. In this Article economic development project means an economic capital development project within a certain defined area or areas of the city as established by the city council, comprised of one or more buildings or other improvements and including any public and/or private facilities. Said project may include programs or facilities for improving downtown redevelopment, 'pocket of poverty' or other federal or State assistance programs which the city council
determines to be in need of economic capital development or revitalization and which qualify for capital assistance under applicable federal or State programs.

(b) Authorization.

(1) In addition to any other authority granted by law, the City of Wilmington may accept grants, expend funds, make grants or loans, acquire property and participate in capital economic development projects which the city council determines will enhance the economic development and revitalization of the city in accordance with the authority granted herein. Such project may include both public and/or private buildings or facilities financed in whole or in part by federal or State grants (including but not limited to urban development action grants) and may include any capital expenditures which the city council finds necessary to comply with conditions in any federal or State grant agreements and which the city council finds will complement the project and improve the public tax base and general economy of the city. By way of illustration, but not limitation, such a project may include the construction or renovation of any one or combination of the following projects:

a. Privately owned hotel.
b. Privately owned office building.
c. Housing.
d. Parking facilities.
e. Industrial buildings.
f. Site improvements.

Such project may be partially financed with city funds received from federal or State sources and being granted or loaned to the private owner for said construction or renovation; in addition, other city funds from any sources may be used for acquisition, construction, leasing and/or operation of facilities by the city for the general public and for capital improvements to public facilities which will support and enhance the private facilities and the general economy of the city.

(2) When the city council finds that it will promote the economic development or revitalization in the city, the city may acquire, construct, and operate or participate in the acquisition, construction, ownership and operation of an economic development project or of specific buildings or facilities within such a project and may comply with any State or federal government grant requirements in connection therewith. The city may enter into binding contracts with one or more private parties or governmental units with respect to acquiring, constructing, owning or operating such a project. Such a contract may, among other provisions, specify the responsibilities of the city and the developer or developers and operators or owners of the project, including the financing of the project. Such a contract may be entered into before the acquisition of any real property necessary to the project by the city or the developer or other parties.

(c) Property acquisition. An economic development project may be constructed on property acquired by the developer or developers, or on property directly acquired by the city, or on property acquired by the Redevelopment Commission or its successors while exercising the powers, duties and responsibilities pursuant to G.S. 160A-505.
(d) Property disposition. In connection with an economic development project, the city may convey interests in property owned by it, including air rights over public facilities, as follows:

1. If the property was acquired under the urban redevelopment law, the property interests may be conveyed in accordance with special or general law.

2. If the property was acquired by the city directly, the city may convey property interests by any procedure set forth in its city charter, special act or the general law or by private negotiation or sale.

(e) Construction of the project. A contract between the city and the developer or developers may provide that the developer or developers shall be responsible for the construction of the entire economic development project. If so, the contract shall include such provisions as the city council deems sufficient to assure that any public facilities included in the project meet the needs of the city and are constructed at a reasonable price. Any funds loaned by the city, pursuant to this paragraph, to a private developer, and used by said developer in the construction of a project on private property shall not be deemed an expenditure of public funds.

(f) Operation. The city may contract for the operation of any public facility or facilities included in an economic development project by a person, partnership, firm or corporation, public or private. In addition, the city, upon consideration, may contract through lease or otherwise whereby it may operate privately constructed parking facilities to serve the general public. Such a contract shall include provisions sufficient to assure that any such facility or facilities are operated for the benefit of the citizens of the city."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1981.

H. B. 530 CHAPTER 439
AN ACT TO MAKE RATE-SETTING HEARINGS NONMANDATORY WHEN THERE IS NO SIGNIFICANT PUBLIC PROTEST AND ALL PARTIES ARE IN AGREEMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 62-81 is amended by adding a new subsection to read:

"(f) Notwithstanding the provisions of this section, or other provisions of this Chapter which would otherwise require a hearing, where there is no significant public protest received within 30 days of the publication of notice of a proposed rate change for a water or sewer utility, the commission may decide the proceeding based on the record without a trial or hearing, provided said utility and all other parties of record have waived their right to any such hearing. Any decision made pursuant to this subsection shall be made in accordance with the provisions of G.S. 62-133 or G.S. 62-133.1."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of May, 1981.
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H. B. 532  CHAPTER 440
AN ACT TO AMEND G.S. 15A-622 TO AUTHORIZE SIX MONTHS' TERMS FOR GRAND JURORS IN CERTAIN COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-622(b) is amended by adding the following paragraph at the end thereof: "In any county the senior resident superior court judge, if he finds that grand jury service is placing a disproportionate burden on grand jurors and their employers, may fix the term of service of a grand juror at six months rather than 12 months. In doing so, he shall prescribe procedures, consistent with this section, for replacement of half of the jurors of the grand jury or grand juries approximately every three months."

Sec. 2. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 25th day of May, 1981.

H. B. 568  CHAPTER 441
AN ACT TO AMEND CHAPTER VII OF THE CHARTER OF THE CITY OF CHARLOTTE RELATING TO THE ESTABLISHMENT OF A SPAY/NEUTER CLINIC AND TO LEVY A DIFFERENTIAL LICENSE TAX.

The General Assembly of North Carolina enacts:

Section 1. Chapter VII, Subchapter A, of the Charter of the City of Charlotte, as enacted by Chapter 713 of the 1965 Session Laws, is amended by adding a new Article V to read:

"ARTICLE V.

"Spay/Neuter Clinic and Differential License Tax.

"Sec. 7.71. Spay/Neuter Clinic. The City of Charlotte is authorized to establish, equip, operate and maintain a spay/neuter clinic for cats and dogs, to employ personnel for this clinic and to appropriate and expend tax and nontax funds, including property taxes, for those purposes. In lieu of the City of Charlotte itself operating the spay/neuter clinic, the City of Charlotte is further authorized to contract with any individual, corporation, nonprofit corporation, governmental body or any other group for the purpose of operating a spay/neuter clinic, or for providing spay/neuter services for dogs and cats within the City of Charlotte. The City of Charlotte may appropriate and expend tax and nontax funds, including property taxes, for these purposes.

"Sec. 7.72. Differential Licensing Tax. The City of Charlotte may levy an annual differential license tax on the privilege of keeping a dog or cat within the City. The City Council of Charlotte may levy a lower annual license tax for spayed or neutered dogs and cats than for nonspayed and nonneutered dogs and cats within the city."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of May, 1981.

710
H. B. 845  

CHAPTER 442

AN ACT TO ALLOW REHEARINGS FOR PATIENTS COMMITTED TO THE PSYCHIATRIC SERVICE OF NORTH CAROLINA MEMORIAL HOSPITAL TO BE HELD AT ANY PLACE IN ORANGE COUNTY WHERE DISTRICT COURT MAY BE HELD.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122-58.21 is amended by deleting the words "or at the Orange County Courthouse", and inserting in lieu thereof the words "or at any place in Orange County where district court can be held under G.S. 7A-133".

Sec. 2. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 25th day of May, 1981.

H. B. 888  

CHAPTER 443

AN ACT TO PERMIT WAYNE COUNTY TO EQUALIZE PER PUPIL EXPENDITURES FOR LOCAL CURRENT EXPENSES AMONG ADMINISTRATIVE UNITS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 383 of the 1979 Session Laws is amended to read:

"Section 1. If during the preceding budget year any public school administrative unit in Wayne County receives or is entitled to receive non-categorical federal impact aid funds appropriated pursuant to Chapter 13, Title 20, U.S.C.S. 236, et seq., (also known as P.L. 81-874 as amended by P.L. 95-561) and/or sales tax appropriations levied pursuant to G.S. 105-466 and/or any other non-categorical funds appropriated pursuant to any federal legislation whose purpose in whole or in part is to supplement or reimburse Wayne County for tax revenues lost due to the presence of a federal military installation, in a sum greater than any other administrative unit in Wayne County, based upon a division of the total of such funds received by the administrative units if the funds had been distributed pursuant to G.S. 115-100.10, the County Commissioners of Wayne County may in their discretion make an additional appropriation for the succeeding budget year to the local current expense fund of the administrative unit receiving less than its proportionate part of said non-categorical federal impact aid funds and/or sales tax appropriations, subject to the limitations of the next section.

"Sec. 2. The maximum additional appropriation which said county commissioners may make to the local current expense funds of an administrative unit eligible to receive the additional appropriation shall be the amount required to equalize the per pupil expenditure from these funds in each administrative unit as if said funds had been allocated and distributed in the same manner as provided in G.S. 115-100.10.

"Sec. 3. Any appropriation made to an administrative unit under this act shall be in addition to appropriations made pursuant to G.S. 115-100.10, but shall not be used in computing the appropriations made under that section of the General Statutes.

"Sec. 4. The term 'non-categorical federal impact aid funds' as used herein shall be deemed to include all funds to which an administrative unit is entitled or which an administrative unit receives under and pursuant to Chapter 13,
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Title 20, U.S.C.S. 236, et seq., and/or any other non-categorical funds appropriated pursuant to any federal legislation whose purpose in whole or in part is to supplement or reimburse Wayne County for tax revenues lost due to the presence of a federal military installation, which are available for use for general current expense purposes at the discretion of the administrative unit receiving the funds.

"Sec. 5. The term 'administrative unit' as used herein shall mean the Wayne County School Administrative Unit and the Goldsboro City School Administrative Unit as the case may be.

"Sec. 6. In the event that the exact amount of sales tax appropriations or federal impact aid funds received or entitled to be received by an administrative unit has not been determined by the time the budget officer of either administrative unit makes his recommendation to the board of commissioners, he shall use the estimated figures furnished to the administrative units.

"Sec. 7. This act shall be effective upon ratification and shall apply only to Wayne County and to appropriations by the Wayne County Commissioners beginning with the fiscal year 1981-1982."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of May, 1981.

H. B. 896  CHAPTER 444

AN ACT TO PROVIDE THAT APPEALS FROM RULINGS OF COUNTY GAME COMMISSIONS SHALL BE HEARD BY THE DISTRICT COURT SITTING IN THE COUNTY IN WHICH THE GAME COMMISSION IS LOCATED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-250 is rewritten to read:

"§7A-250. Review of decisions of administrative agencies.—(a) Except as otherwise provided in subsections (b) and (c) of this section, the superior court division is the proper division, without regard to the amount in controversy, for review by original action or proceeding, or by appeal, of the decisions of administrative agencies, according to the practice and procedure provided for the particular action, proceeding, or appeal.

(b) The Court of Appeals shall have jurisdiction to review final orders or decisions of the North Carolina Utilities Commission and the North Carolina Industrial Commission, as provided in Article 5 of this Chapter, and any order or decision of the Commissioner of Insurance described in G.S. 58-9.4.

(c) Appeals from rulings of county game commissions shall be heard in the district court division. The appeal shall be heard de novo before a district court judge sitting in the county in which the game commission whose ruling is being appealed is located."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of May, 1981.

712
H. B. 922

CHAPTER 445
AN ACT TO ALLOW ADDITIONAL POOL-TYPE INVESTMENTS BY LOCAL GOVERNMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 159-30(c)(7), as the same appears in the 1979 Supplement to 1976 Replacement Volume 3D of the General Statutes, is renumbered G.S. 159-30(c)(10) and a new G.S. 159-30 (c)(7) is enacted to read:

"(7) Participating shares in a mutual fund for local government investment; provided that the investments of the fund are limited to those qualifying for investment by the State under G.S. 147-69.1 and that said fund is certified by the Local Government Commission. The Local Government Commission shall have the authority to issue rules and regulations concerning the establishment and qualifications of any mutual fund for local government investment."

Sec. 2. A new subsection G.S. 159-30(c)(8) is enacted to read:

"(8) A commingled investment pool established and administered by the State Treasurer pursuant to G.S. 147-69.3."

Sec. 3. A new subsection G.S. 159-30(c)(9) is enacted to read:

"(9) A commingled investment pool established by interlocal agreement by two or more units of local government pursuant to G.S. 160A-460 through 160A-464, if the investments of the pool are limited to those qualifying for investment by the State under G.S. 147-69.1."

Sec. 4. G.S. 147-69.3(b), as the same appears in the 1979 Supplement to 1978 Replacement Volume 3C of the General Statutes, is amended by striking the word "or" in line 1 and adding after "authority" in the same line the words and punctuation ", local government, school administrative unit, local ABC board, or community college."

Sec. 5. G.S. 147-69.3(b), as the same appears in the 1979 Supplement to Replacement Volume 3C of the General Statutes, is amended by striking the word "trust" in line 2.

Sec. 6. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 25th day of May, 1981.

S. B. 213

CHAPTER 446
AN ACT TO AMEND G.S. 25A-15 RELATING TO RATES FOR CONSUMER CREDIT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 25A-15(b) is rewritten to read as follows:

"(b) Except as hereinafter provided, the finance charge rate for a consumer credit installment sales contract may not exceed:

(1) twenty-four percent (24%) per annum where the amount financed is less than one thousand five hundred dollars ($1,500);
(2) twenty-two percent (22%) per annum where the amount financed is one thousand five hundred dollars ($1,500) or greater, but less than two thousand dollars ($2,000);
(3) twenty percent (20%) where the amount financed is two thousand dollars ($2,000) or greater, but less than three thousand dollars ($3,000);
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(4) eighteen percent (18%) per annum where the amount financed is three thousand dollars ($3,000) or greater, except that a minimum finance charge of five dollars ($5.00) may be imposed."

Sec. 2. G.S. 25A-15(d) is amended by deleting the words and figures "twelve percent (12%)" and inserting in lieu thereof the words and figures "sixteen percent (16%)".

Sec. 3. G.S. 25A-15(c) is rewritten to read:

"(c) A finance charge rate not to exceed the higher of the rate established in subsection (b) or the rate set forth below may be imposed in a consumer credit installment sale contract repayable in not less than six installments for a self-propelled motor vehicle:

(1) 18% per annum for vehicles one and two model years old;
(2) 20% per annum for vehicles three model years old;
(3) 22% per annum for vehicles four model years old; and
(4) 29% per annum for vehicles five model years old and older.

A motor vehicle is one model year old on January 1 of the year following the designated year model of the vehicle."

Sec. 4. This act shall become effective 30 days after ratification.

In the General Assembly read three times and ratified, this the 25th day of May, 1981.

S. B. 472    CHAPTER 447
AN ACT TO ALLOW MONIES IN OFFICIAL DEPOSITORIES TO BE PLACED IN NEGOTIABLE ORDER OF WITHDRAWAL ACCOUNTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-100.27(a) is amended by adding at the end of the subsection:

"; however, monies belonging to an administrative unit or an individual school may be deposited in official depositories in Negotiable Order of Withdrawal (NOW) accounts."

Sec. 2. G.S. 159-31(a) is amended by adding at the end of the subsection:

"; however, public monies may be deposited in official depositories in Negotiable Order of Withdrawal (NOW) accounts."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of May, 1981.

S. B. 370    CHAPTER 448
AN ACT TO AMEND THE NORTH CAROLINA FERTILIZER LAW, CHAPTER 106, ARTICLE 56 OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-657(1) is rewritten to read: "(1) The term 'brand name' means the name under which any individual mixed fertilizer or fertilizer material is offered for sale, and may include a trademark, but shall not include any numeral other than the grade of the fertilizer."

Sec. 2. G.S. 106-657(9) is amended on line two by inserting the following between "(as K20)" and "stated": "only.."
Sec. 3. G.S. 106-657(11) is rewritten as follows: "(11) The term 'manufacturer' means a person engaged in the business of preparing, mixing, or manufacturing commercial fertilizers or the person whose name appears on the label as being responsible for the guarantee. The term 'manufacture' means preparing, mixing, or combining fertilizer materials chemically or physically, including the simultaneous application of two or more fertilizer materials, by a manufacturer or contract applicator."

Sec. 4. G.S. 106-657(22) is rewritten as follows: "(22) The term 'specialty fertilizer' means any fertilizer distributed primarily for use on noncommercial crops such as gardens, lawns, shrubs, flowers, golf courses, cemeteries and nurseries."

Sec. 5. G.S. 106-660(a) is rewritten to read: "(a) Each brand of commercial fertilizer for tobacco, specialty fertilizer, fertilizer materials, manipulated manure and fortified mulch shall be registered by the person whose name appears upon the label before being offered for sale, sold or distributed in this State, except those brands expressly produced for experimental and demonstration purposes only. Other fertilizers may be manufactured and sold without registration after obtaining a license as required in G.S. 106-661(a); provided, that such fertilizers contain a minimum of twenty percent (20%) primary plant nutrients, Nitrogen (N), available Phosphoric Acid (P2O5), and Soluble Potash (K2O). The application for registration shall be submitted in duplicate to the Commissioner for his approval on forms furnished by the Commissioner, and shall include a fee of two dollars ($2.00) per brand and grade for all packages greater than five pounds. The registration fee for packages of five pounds or less shall be twenty-five dollars ($25.00). All approved registrations expire on June 30 of each year. The application shall include such information as deemed necessary by the Board of Agriculture."

Sec. 6. G.S. 106-660(d) is rewritten to read: "(d) Any person desiring to manufacture or distribute fertilizers not required to be registered shall first secure a license. Application for said license shall be made on forms provided by the Commissioner and shall be accompanied by a reasonable fee to be determined by the Board of Agriculture. Said license shall be renewable annually on the first day of July. Said license may be suspended, revoked or terminated for a violation of this Article or any rule promulgated thereunder."

Sec. 7. G.S. 106-661(d) is rewritten to read: "(d) All labels and registrations shall carry identical guarantees for each fertilizer product requiring registration."

Sec. 8. G.S. 106-662(b)(4) is rewritten to read: "(4) All samples taken under the provisions of this section shall be taken from original unbroken bags or containers, the contents of which have not been damaged by exposure, water or otherwise; provided, that any commercial fertilizer offered for sale, sold or distributed in bulk may be sampled in a manner approved by the Commissioner."

Sec. 9. G.S. 106-663 is amended by rewriting the last sentence as follows: "The Commissioner is authorized to refuse, suspend, revoke or terminate the license of any manufacturer or to refuse, suspend, revoke or terminate the registration of such commercial fertilizer for any violations of this section."

Sec. 10. G.S. 106-669 is rewritten to read: "The Commissioner is authorized to suspend, revoke or terminate the license of any manufacturer or to refuse, suspend, revoke or terminate the registration of any commercial
fertilizer upon proof that the manufacturer has been guilty of fraudulent or deceptive practices, or in the evasion or attempted evasion of this Article or any rule promulgated thereunder."

Sec. 11. G.S. 106-677 is amended by deleting the last three sentences and inserting in lieu thereof the following: "The Commissioner may suspend, revoke or terminate the registration of said commercial fertilizer and suspend, revoke or terminate the license of any person failing to comply with this section within 30 days of the close of each period. All information published by the Department of Agriculture pursuant to this section shall be classified so as to prevent the identification of information received from individual registrants. All information received pursuant to this section shall be held confidential by the Department and its employees."

Sec. 12. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1981.

S. B. 371

CHAPTER 449

AN ACT TO AMEND THE NORTH CAROLINA AGRICULTURE LIMING MATERIALS AND LANDPLASTER ACT, ARTICLE 8A OF CHAPTER 106 OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. Article 8A of Chapter 106 of the General Statutes is amended by adding a new section thereto as follows:

"§ 106-92.17. Lime and fertilizer mixtures.—The provisions of this Article shall apply to mixtures of agricultural liming material and fertilizer, except as follows:

(1) such mixtures shall meet the labeling requirements of G.S. 106-92.5(a) in addition to providing information including, but not limited to, a guaranteed analysis of the fertilizer element or plant nutrient;

(2) the tonnage fee for such mixtures under G.S. 106-92.8 shall be twenty-five cents (25¢) per ton; and,

(3) the Board of Agriculture shall establish the allowable deficiency percentage and refund rate for such mixtures under G.S. 106-92.11."

Sec. 2. G.S. 106-92.3 is amended by adding a new subsection (1a) as follows:

"(1a) 'Agricultural liming material and fertilizer mixture' means any agricultural liming material combined with a single fertilizer element or single plant nutrient."

Sec. 3. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 26th day of May, 1981.
H. B. 125  
CHAPTER 450
AN ACT TO REWRITE ARTICLE 8D OF CHAPTER 105 OF THE GENERAL STATUTES GOVERNING THE TAXATION OF SAVINGS AND LOAN ASSOCIATIONS IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. Article 8D of Chapter 105 of the General Statutes is rewritten to read as follows:

"ARTICLE 8D.

"Schedule I-D. Taxation of Building and Loan Associations and Savings and Loan Associations.

§105-228.22. To whom this Article shall apply.—The provisions of this Article shall apply to every building and loan association or savings and loan association organized under the laws of this State or organized under the laws of another state and which maintains one or more places of business in this State and to every savings and loan association organized and existing under the 'Home Owners Loan Act of 1933' and which maintains one or more places of business in this State, all such associations hereinafter to be referred to as savings and loan associations.

§105-228.23. Powers of the administrator of the savings and loan division.—All provisions of Subchapter I of this Chapter not inconsistent with this Article, relating to administration, auditing and making returns, the imposition and collection of tax and the lien thereof, assessments, refunds, penalties, and appeal and review, shall be applicable to the fees and taxes imposed by this Article; and with respect thereto, the administrator of the savings and loan division is hereby given the same power and authority as is given to the Secretary of Revenue under the provisions of this Chapter. The administrator of the savings and loan division may, from time to time, make, prescribe, and publish such rules and regulations, not inconsistent with law, as may be needful to enforce the provisions of this Article. The Secretary of Revenue shall render such assistance in the audit of returns and the collection of the taxes levied hereunder as the administrator of the savings and loan division shall request.

§105-228.24. Limitations.—The taxes levied under this Article shall be in lieu of all other taxes and fees except those imposed by Subchapter I of Chapter 54 and Chapter 54A of the General Statutes and amendments thereto, and except ad valorem taxes imposed upon real property and tangible personal property, and except sales and/or use taxes levied by this State, and except taxes levied on intangible property under G.S. 105-199, 105-200, 105-204 and 105-205.

Counties, cities and towns shall not, after the effective date of this Article, levy any license tax on the business of any savings and loan association subject to taxation under this Article.

§105-228.25. Filing of returns.—Every savings and loan association taxed under this Article shall file annually with the administrator of the savings and loan division an income tax return and a franchise tax return. Payment of taxes shall be made with the returns filed. The due dates of such returns and the forms of such returns shall be the same as prescribed for corporations in Article 3 and Article 4 of Subchapter I of this Chapter.

§105-228.26. Income tax.—Every savings and loan association doing business in this State shall pay annually an income tax equal to that which the

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savings and loan association would be required to pay under Article 4 of Subchapter I of this Chapter.

“§105-228.27. Franchise tax.—Every savings and loan association doing business in this State shall pay annually a franchise tax equal to that which the savings and loan association would be required to pay under Article 3 of Subchapter I of this Chapter if it were a corporation. For purposes of this tax, capital stock does not include any portion of the deposits in a savings and loan association.”

Sec. 2. G.S. 105-130.11(a)(2), as the same appears in the 1979 Replacement Volume 2D of the General Statutes, is amended by deleting “capital stock tax and/or excise”.

Sec. 3. This act shall become effective January 1, 1982. The share and deposit tax levied under Article 8D of G.S. Chapter 105 prior to the effective date of this act shall not be collected for taxable years beginning on or after that date. This act shall apply for income tax purposes to taxable years beginning on or after January 1, 1982, and shall apply for franchise tax purposes as of December 31, 1982.

In the General Assembly read three times and ratified, this the 26th day of May, 1981.

H. B. 149

CHAPTER 451

AN ACT TO PROVIDE THAT ANY PARTY MAY INTRODUCE PHOTOGRAPHS AS SUBSTANTIVE EVIDENCE UPON LAYING A PROPER FOUNDATION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 8 of the General Statutes of North Carolina is amended to add a new Article as follows:

"ARTICLE 13.
"Photographs.

"§ 8-92. Photographs as substantive or illustrative evidence.—Any party may introduce a photograph, video tape, motion picture, X-ray or other photographic representation as substantive evidence upon laying a proper foundation and meeting other applicable evidentiary requirements. This section does not prohibit a party from introducing a photograph or other pictorial representation solely for the purpose of illustrating the testimony of a witness."

Sec. 2. This act shall become effective on October 1, 1981.

In the General Assembly read three times and ratified, this the 26th day of May, 1981.
H. B. 150  

CHAPTER 452  

AN ACT TO ESTABLISH A MAXIMUM REGISTRATION FEE OF TWO HUNDRED FIFTY DOLLARS FOR CERTAIN UNIT INVESTMENT TRUSTS.

The General Assembly of North Carolina enacts:

Section 1. The third sentence of G.S. 78A-28(b) is amended by inserting between the word "trust" and the comma following that word the following: "(except a unit investment trust at least eighty percent (80%) of whose corpus consists of obligations of this State or its political subdivisions)".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1981.

H. B. 307  

CHAPTER 453  


The General Assembly of North Carolina enacts:

Section 1. Section 3, Chapter 932 of the 1977 Session Laws, is rewritten to read:

"Sec. 3. This act shall become effective on July 1, 1981 and shall expire on July 1, 1991, unless further extended prior to that time."

Sec. 2. This act is effective on July 1, 1981.

In the General Assembly read three times and ratified, this the 26th day of May, 1981.

H. B. 770  

CHAPTER 454  

AN ACT TO CLARIFY NONTESTIMONIAL IDENTIFICATION PROCEDURES IN JUVENILE CASES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-596 is amended by deleting the punctuation "." from the first sentence and by replacing it with the phrase "unless the juvenile has been transferred to superior court for trial as an adult in which case procedures applicable to adults as set out in Articles 14 and 23 of Chapter 15A shall apply."

Sec. 2. G.S. 7A-597 is amended by deleting the phrase "or prior to trial in superior court where a case is transferred pursuant to Article 49 of this Chapter".

Sec. 3. This act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 26th day of May, 1981.
H. B. 778  CHAPTER 455

AN ACT TO AMEND G.S. CHAPTER 7A TO AUTHORIZE RECALL FOR TEMPORARY SERVICE OF JUSTICES AND JUDGES WHO HAVE REACHED THE MANDATORY RETIREMENT AGE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-4.20 is rewritten to read as follows:

“§ 7A-4.20. Age limit for service as justice or judge; exception.—No justice or judge of the appellate division of the General Court of Justice may continue in office beyond the last day of the month in which he attains his seventy-second birthday, and no judge of the superior court or district court division of the General Court of Justice may continue in office beyond the last day of the month in which he attains his seventieth birthday, but justices and judges so retired may be recalled for periods of temporary service as provided in Subchapters II and III of this Chapter.”

Sec. 2. A new section is added to G.S. Chapter 7A, Article 6, to read as follows:

“§ 7A-39.13. Recall provisions applicable to active and emergency justices and judges who have reached the mandatory retirement age.—Justices and judges retired because they have reached the mandatory retirement age, and emergency justices and judges whose commissions have expired because they have reached the mandatory retirement age, may be temporarily recalled to active service under the following circumstances:

(a) The justice or judge must consent to the recall.

(b) The Chief Justice is authorized to recall retired justices, and the Chief Judge is authorized to recall retired judges of the Court of Appeals each to serve on the court from which retired.

(c) The period of recall shall not exceed six months, but it may be renewed for an additional six months if the emergency for which the recall was ordered continues.

(d) Prior to recall, the Chief Justice or the Chief Judge, as the case may be, shall satisfy himself that the justice or judge being recalled is capable of efficiently and promptly performing the duties of the office to which recalled.

(e) Recall is authorized only to replace an active justice or judge who is temporarily incapacitated.

(f) Jurisdiction and authority of a recalled justice or judge is as specified in G.S. 7A-39.7.

(g) The Supreme Court and the Court of Appeals, as the case may be, shall prescribe rules respecting the filing of opinions prepared by a retired justice or judge after his period of temporary service has expired, and respecting any other matter deemed necessary and consistent with this section.

(h) Compensation of recalled retired justices and judges is the same as for recalled emergency justices and judges under G.S. 7A-39.3(b).

(i) Recall shall be evidenced by a commission signed by the Chief Justice or Chief Judge, as the case may be.”

Sec. 3. G.S. 7A-39.3(b) is amended by addition of the following:

“However, no recalled retired or emergency justice or judge shall receive from the State total annual compensation for judicial services in excess of that received by an active justice or judge of the bench to which the justice or judge is recalled.”
Sec. 4. A new section is added to G.S. Chapter 7A, Article 8, to read as follows:

"§ 7A-57. Recall provisions applicable to active and emergency trial judges who have reached the mandatory retirement age.—Superior and district court judges retired because they have reached the mandatory retirement age, and emergency superior and district court judges whose commissions have expired because they have reached the mandatory retirement age, may be recalled to preside over regular or special sessions of the court from which retired under the following circumstances:

(a) The judge must consent to the recall.
(b) The Chief Justice is authorized to order the recall.
(c) Prior to ordering recall, the Chief Justice shall satisfy himself that the recalled judge is capable of efficiently and promptly discharging the duties of the office to which recalled.
(d) Jurisdiction of a recalled retired superior court judge is as set forth in G.S. 7A-48, and jurisdiction of a recalled retired district court judge is as set forth in G.S. 7A-53.1.
(e) Orders of recall and assignment shall be in writing and entered upon the minutes of the court to which assigned.
(f) Compensation of recalled retired trial judges is the same as for recalled emergency trial judges under G.S. 7A-52(b)."

Sec. 5. General Statutes Chapter 7A, Article 8, is amended by insertion therein of a new section to read as follows:

"§ 7A-53.1. Jurisdiction of emergency district court judges.—Emergency district court judges have the same power and authority in all matters whatsoever, in the courts which they are assigned to hold, that regular district court judges holding the same courts would have. An emergency district court judge duly assigned to hold district court in a particular county or district has the same powers in the county or district in open court and in chambers as a resident district court judge or any district court judge regularly assigned to hold district court in that district, but his jurisdiction in chambers extends only until the session is adjourned or the session expires by operation of law, whichever is later."

Sec. 6. G.S. 7A-52(b) is amended by addition of the following:

"No recalled retired trial judge shall receive from the State total annual compensation for judicial services in excess of that received by an active judge of the bench to which the judge is recalled."

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1981.
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S. B. 341  CHAPTER 456
AN ACT TO PERMIT DISCLOSURE OF REAL PROPERTY INTERESTS AND ASSETS BY THE GUILFORD COUNTY REGISTER OF DEEDS AND SPOUSE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 296 of the 1973 Session Laws is amended by adding the following paragraph to Section 1:

"The Register of Deeds of Guilford County may, within 30 days of the effective date of this act or within 30 days of assuming office, file a written disclosure with the clerk of superior court of all legal, equitable or beneficial interests the register of deeds or spouse may have in any real property in Guilford County."

Sec. 2. Chapter 296 of the 1973 Session Laws is amended by adding the following at the end of Section 4:

"In addition, the register of deeds may within 30 days of acquisition, file a written disclosure of any legal, equitable or beneficial interest in real property in Guilford County that the register of deeds or the spouse of the register of deeds acquires after the disclosure in Section 1 has been filed."

Sec. 3. This act is effective upon ratification.

H.R. 280  CHAPTER 457
AN ACT TO AMEND CHAPTER 86A OF THE GENERAL STATUTES PERTAINING TO BARBERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 86A-3 is amended by rewriting subsection (3) to read as follows:

"(3) Has passed a clinical examination conducted by the Board; and"

G.S. 86A-3 is further amended by adding a new subsection (4) to read as follows:

"(4) Has submitted to the board the signatures of three barbers registered in North Carolina, one of whom has supervised the applicant, certifying that the applicant has served the apprenticeship required by subsection (2)."

Sec. 2. G.S. 86A-4 is rewritten to read as follows:

"§86A-4. State Board of Barber Examiners; appointment and qualifications, term of office, removal.—(a) The State Board of Barber Examiners is established to consist of four members appointed by the Governor. Three shall be licensed barbers; the other shall be a person who is not licensed under this Chapter and who shall represent the interest of the public at large.

(b) All members serving on the board on June 30, 1981, shall complete their respective terms. The Governor shall appoint the public member not later than July 1, 1981. No member appointed to the board on or after July 1, 1981, shall serve more than two complete consecutive three-year terms, except that each member shall serve until his successor is appointed and qualifies.

(c) The Governor may remove any member for good cause shown and may appoint members to fill unexpired terms."
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Sec. 3. G.S. 86A-5 is amended by rewriting line 1 to read as follows:
“§ 86A-5. Powers and duties of the board.—(a) The board has the following“.
G.S. 86A-5 is further amended by rewriting subsection (3) to read as follows:
“(3) To review the barber licensing laws of other states and to determine which are the substantive equivalent of the laws of North Carolina for purposes of G.S. 86A-12;”.

Sec. 4. G.S. 86A-5 is further amended at the beginning of line 14 by deleting the number “5” and substituting therefor the letter “c” and by inserting between lines 13 and 14 the following language:
“(b) The board shall adopt regulations:
(1) Prohibiting the use of commercial chemicals of unknown content by persons registered under this Chapter. For purposes of this section, 'commercial chemicals' are those products sold only through beauty and barber supply houses and not available to the general public;
(2) Instructing persons registered under this Chapter in the proper use and application of commercial chemicals where no manufacturer’s instructions are included. In the alternative, the board shall prohibit the use of such commercial chemicals by persons registered under this Chapter.”

Sec. 5. G.S. 86A-10 is amended on line 2 by deleting the word “compiled” and substituting therefor the word “complied”.

Sec. 6. G.S. 86A-11(a) is amended on lines 4 and 5 by deleting the words “barber license” and substituting therefor the words “apprenticeship registration”.

Sec. 7. G.S. 86A-11(d) is rewritten to read as follows:
“(d) The board may grant a temporary permit to work to persons licensed in another state and seeking permanent licensure in North Carolina under G.S. 86A-12.”

Sec. 8. G.S. 86A-12 is rewritten to read as follows:
“§ 86A-12. Applicants licensed in other states.—The board shall issue a license to applicants already licensed in another state provided the applicant presents evidence satisfactory to the board that:
(1) He is currently an active, competent practitioner in good standing; and
(2) He has practiced at least three out of the five years immediately preceding his application; and
(3) He currently holds a valid license in another state; and
(4) There is no disciplinary proceeding or unresolved complaint pending against him at the time a license is to be issued by this State; and
(5) The licensure requirements in the other state are the substantive equivalent of those required by this State.
Any license granted pursuant to this section is subject to the same duties and obligations and entitled to the same rights and privileges as a license issued under G.S. 86A-3.”

Sec. 9. G.S. 86A-18(1) is amended by rewriting line 1 to read as follows:
“(1) conviction of the applicant or certificate holder of a felony proved by certified copy”.
G.S. 86A-18(5) is amended on line 2 by deleting the number “(7)” and substituting therefor the number “(6)”. 723
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G.S. 86A-18(7) is amended on line 1 by deleting the word “pretaining” and substituting therefor the word “pertaining”.

Sec. 10. G.S. 86A-20(2) is amended on line 2 by inserting between the words “than” and “required” the word “the”, and by deleting the comma following the word “fee” and before the word “or”.

Sec. 11. G.S. 86A-17(b) is amended on line 5 by inserting the word “clinical” between the words “the” and “examination”.

G.S. 86A-17(b) is further amended by adding a new sentence at the end to read as follows:

“No registered barber who is reissued a certificate under this subsection shall be required to serve an apprenticeship as a prerequisite to reissuance of his certificate.”

Sec. 12. G.S. 86A-22(2) is amended on lines 1 and 2 by deleting the words “to properly instruct the number of students”.

G.S. 86A-22(4) is amended by inserting a sentence at the end thereof to read as follows:

“The board shall specify the minimum number of hours of instruction for each subject required by this subsection.”

Sec. 13. G.S. 86A-23(a) is amended on line 4 by deleting the citation “86A-22(3)” and the brackets preceding and following the citation “86A-22(4)”.

Sec. 14. G.S. 86A-24 is rewritten to read as follows:

“§ 86A-24. Apprenticeship.—(a) Before being issued an apprentice license, an applicant must pass an examination conducted by the board to determine his competence, including his knowledge of barbering, sanitary rules and regulations, and knowledge of diseases of the face, skin and scalp.

(b) An apprentice license may be renewed annually on the payment of the prescribed fee. The certificate of registration of an apprentice is valid only so long as he works under supervision of a registered barber. No apprentice shall operate a barbershop.

(c) On completion of at least one year’s apprenticeship, evidenced by affidavit of the supervising registered licensed barber or barbers, and upon meeting the other requirements of G.S. 86A-3, the apprentice shall be issued a license as a registered barber, pursuant to G.S. 86A-10. No registered apprentice may practice for a period exceeding three years without retaking and passing the required examination to receive a certificate as a registered apprentice.”

Sec. 15. G.S. 143-34.12 is amended by deleting line 17, which reads as follows:

“Chapter 86, entitled ‘Barbers’.”

Sec. 16. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of May, 1981.
H. B. 625  CHAPTER 458
AN ACT TO ALLOW NEW HANOVER COUNTY ORDINANCES REGULATING WASTE DISPOSAL TO APPLY COUNTYWIDE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-132.1 is amended by deleting the words "the rural areas of the county and outside and beyond the corporate limits of any municipality of".

Sec. 2. Any ordinance adopted under G.S. 153A-132.1 or G.S. 153A-136 may become effective countywide notwithstanding the provisions of G.S. 153A-122, and may apply to activities of cities and towns, and may provide that it supersedes a city or town ordinance on the same subject.

Sec. 3. This act applies to New Hanover County only.

Sec. 4. G.S. 153A-299.6, as found in the 1980 Interim Supplement is amended by adding immediately after the words "Martin County", the words ", New Hanover County".

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of May, 1981.

H. B. 1007  CHAPTER 459
AN ACT TO REQUIRE CONSENT OF THE SAMPSON COUNTY BOARD OF COMMISSIONERS BEFORE LAND IN THAT COUNTY MAY BE CONDEMNED OR ACQUIRED BY A UNIT OF LOCAL GOVERNMENT OUTSIDE SAMPSON COUNTY AND TO ENACT SIMILAR PROVISIONS FOR JOHNSTON COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 283, Session Laws of 1981, is amended by adding immediately after the word "Brunswick" the words ", Sampson, Johnston".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of May, 1981.

H. B. 528  CHAPTER 460
AN ACT TO GIVE THE UTILITIES COMMISSION AUTHORITY TO PRESCRIBE MANNER FOR DISTRIBUTING CUSTOMER REFUNDS OF WHOLESALE INCREASE TO UTILITY COMPANIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 62-136(c) is amended to read:

"(c) If any refund is made to a distributing company operating as a public utility in North Carolina of charges paid to the company from which the distributing company obtains the energy, service or commodity distributed, the Commission may, in cases where the charges have been included in rates paid by the customers of the distributing company, require said distributing company to distribute said refund plus interest among the distributing company's customers in a manner prescribed by the Commission. The amount of said interest shall be determined pursuant to G.S. 62-130(e)."
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Sec. 2. This act shall not be applied to pending litigation.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of May, 1981.

H. B. 531  CHAPTER 461

AN ACT TO GIVE THE UTILITIES COMMISSION THE AUTHORITY TO
DECIDE THE LEVEL OF INTEREST TO ADD TO CUSTOMER
REFUNDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 62-130 is amended by adding a new subsection to read:

“(e) In all cases where the commission requires or orders a public utility to
refund monies to its customers which were advanced by or overcollected from
its customers, the commission shall require or order the utility to add to said
refund an amount of interest at such rate as the commission may determine to
be just and reasonable; provided, however, that such rate of interest applicable
to said refund shall not exceed ten percent (10%) per annum.”

Sec. 2. G.S. 62-135(c) is amended to read:

“(c) No rate or rates shall be placed in effect pursuant to this section until the
public utility has filed with the commission a bond in a reasonable amount
approved by the commission, with sureties approved by the commission, or an
undertaking approved by the commission, conditioned upon the refund in a
manner to be prescribed by order of the commission, to the persons entitled
thereof the amount of the excess plus interest from the date that such rates
were put into effect, if the rate or rates so put into effect are finally determined
to be excessive. The amount of said interest shall be determined pursuant to
G.S. 62-130(e).”

Sec. 3. Chapter 24 of the General Statutes is amended by adding a new
section to read:

“§ 24-1.4. Certain repayments to consumers by public utilities not subject to
claim or defense of usury.—Notwithstanding any other provision of this
Chapter or any other provision of law, any public utility, as defined by G.S.
62-3, shall pay to its customers such rate of interest as may be required by order
of the North Carolina Utilities Commission in transactions wherein the utility
is refunding to its customers funds advanced by or overcollected from the
customers. As to such transactions, the claim or defense of usury by such public
utility and its successors or anyone else in its behalf is prohibited.”

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of
May, 1981.
H. B. 951

CHAPTER 462

AN ACT TO DISSOLVE THE CORPORATION OF THE CONFEDERATE WOMAN'S HOME ASSOCIATION.

Whereas, the population of the Confederate Women's Home in Fayetteville has declined from 56 to nine residents;
Whereas, the cost of operating the Home has increased to two hundred seven thousand dollars ($207,000) per year;
Whereas, the residents can be given skilled nursing or rest home care equal to that received in the Home;
Whereas, there is some concern as to the physical condition and safety of the existing facilities; and
Whereas, the Secretary of Human Resources and the Board of Directors for the Home have recommended that the General Assembly close the Home and dissolve the Corporation; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 112-1 and G.S. 112-3 are hereby repealed.

Sec. 2. The Confederate Woman's Home Association, as incorporated under G.S. 112-1, is hereby dissolved.

Sec. 3. The State of North Carolina shall be responsible for the total nonfederal share of the cost of care for residents of the Confederate Women’s Home who are placed in domiciliary care facilities or nursing home facilities and who may be eligible for State-County Special Assistance for Adults or Medical Assistance under G.S. Chapter 108A.

Sec. 4. All appropriations by the General Assembly for the fiscal year 1980-81, which are in excess of the amounts needed to pay the cost of care for the residents or to maintain the property shall revert to the General Fund as of July 1, 1981.

Sec. 5. G.S. 143B-173(a)(6) is hereby repealed.

Sec. 6. G.S. 143B-174, as it appears in the 1980 Interim Supplement, is amended by deleting the fifth sentence and by deleting in the seventh sentence in lines 27-28 the semicolon and the phrase following the semicolon:
“and the Board of Directors of the Confederate Women’s Home, all of whose appointments expire June 30, 1973”.

Sec. 7. The Board of Directors of the Confederate Women’s Home is hereby abolished.

Sec. 8. The State of North Carolina shall not accept applications for admission to the Confederate Women's Home after July 1, 1981.

Sec. 9. To the extent necessary for completing the business of the Confederate Woman's Home Association, for disposing of the property of the Association, and for providing for the continued care of the residents, the powers heretofore vested in the Confederate Woman's Home Association and the Board of Directors of the Confederate Women's Home are hereby vested in the Department of Human Resources. The Secretary of Human Resources shall have the power to adopt, amend, or repeal rules in matters affecting the Confederate Women's Home or its residents from the effective date of this act forward.

Sec. 10. Title to stocks held by the Confederate Woman's Home Association shall be transferred to the North Carolina Division of the United
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Daughters of the Confederacy. Such transfer shall occur prior to the dissolution of the Corporation.

Sec. 11. Notwithstanding the provisions of Article 3A of Chapter 143 of the General Statutes and G.S. 112-5, the Board of Directors of the Confederate Women’s Home is hereby vested with the authority to dispose of the personal property, furnishings, and paintings in the Confederate Women’s Home. Such disposition shall occur prior to the abolition of the Board.

Sec. 12. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 28th day of May, 1981.

S. B. 91    CHAPTER 463

AN ACT TO REWRITE THE MEAT MARKET LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-167 is rewritten to read:

“§ 130-167. Regulation of places selling meat.—For the purpose of protecting the public health, the Commission for Health Services shall promulgate rules governing the sanitation of markets where meat food products (as defined in G.S. 106-549.15(14)) or poultry products (as defined in G.S. 106-549.51(26)) are prepared and sold. The rules shall also provide a system of grading such markets. All such markets shall satisfy minimum sanitation standards as prescribed by the rules in order to operate. The rules shall include only: the preparation and storage of all food at such markets; construction and cleanliness of the building, equipment and utensils; water supply; toilet facilities; handwashing facilities; disposal of waste; lighting and ventilation; vermin control; and health of employees.”

Sec. 2. G.S. 130-168 is repealed.

Sec. 3. G.S. 130-169 is rewritten to read as follows:

“§ 130-169. Application of Article.—The provisions of this Article shall not apply to markets where meat food products or poultry products are prepared and sold which are under continuous inspection by the North Carolina Department of Agriculture or the United States Department of Agriculture.”

Sec. 4. The title of Article 14 of Chapter 130 of the General Statutes is rewritten to be “Meat Markets.”

Sec. 5. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 28th day of May, 1981.

S. B. 100    CHAPTER 464

AN ACT TO AMEND G.S. 24-1.2, G.S. 24-14, G.S. 53-172 AND G.S. 53-180 RELATING TO INSTALLMENT LOAN RATES, INCLUDING SECOND MORTGAGES, LOANS SECURED BY SECONDARY MORTGAGES AND CERTAIN PROVISIONS OF THE NORTH CAROLINA CONSUMER FINANCE ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 24-1.2 is amended by deleting subdivisions (1) and (2) and by inserting new subdivisions (1), (2) and (3) as follows and by renumbering existing subdivision (5) as subdivision (4):

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§ 24-1.2. **Installment rates.**—Except as otherwise provided in this Chapter or other applicable law, the parties to a loan, purchase money loan, advance, commitment for a loan, or forebearance, may contract in writing for the payment of interest as follows:

(1) On installment loans not exceeding five thousand dollars ($5,000), which are not secured by a security interest in any degree on real property, which are for periods of not less than six months nor more than 120 months, which are repayable in substantially equal consecutive monthly payments, which shall not be collected in advance, and which shall be computed monthly on the outstanding principal balance, the rate shall not exceed the rates set under subdivision (3) of this section; provided, a minimum charge of ten dollars ($10.00) or one dollar ($1.00) per payment may be agreed to and charged in lieu of interest. The borrower may prepay all or any part of this loan without penalty. The due date of the first monthly payment shall not be more than 45 days following disbursement of funds under any such installment loan.

(2) On installment loans not exceeding twenty-five thousand dollars ($25,000), which are not secured by a first security instrument on real property, and which are payable at least quarterly in substantially equal payments of principal and interest, or in substantially equal payments of principal, the rate of interest, computed on the outstanding balance, shall not exceed the rate set under subdivision (3) of this section; provided a minimum charge of ten dollars ($10.00) or one dollar ($1.00) per payment may be agreed to and charged in lieu of interest. The borrower may prepay all or any part of the loan without penalty.

(3) On the fifteenth day of each month, the Commissioner of Banks shall announce and publish the maximum rate of interest permitted by subdivisions (1) and (2) of this section. Such rate shall be the latest published noncompetitive rate for U.S. Treasury bills with a six-month maturity as of the fifteenth day of the month plus six percent (6%), rounded upward or downward, as the case may be, to the nearest one-half of one percent (1/2 of 1%) or sixteen percent (16%), whichever is greater. If there is no nearest one-half of one percent (1/2 of 1%), the Commissioner shall round downward to the lower one-half of one percent (1/2 of 1%). The rate so announced shall be the maximum rate permitted for the following calendar month on all loans made under this section."

Sec. 2. G.S. 53-172 is amended by adding the following sentence at the end of the first paragraph thereof: "The making of home loans as defined in G.S. 24-1.1A(e) or the making of noncommercial loans in a principal amount in excess of twenty-five thousand dollars ($25,000) is contrary to the best interest of the borrowing public and shall not be authorized by the commissioner."

Sec. 3. G.S. 53-180 is amended by adding a new subsection (h) to read as follows:

"(h) Limitation on Other Loans. No licensee shall make any home loan as defined in G.S. 24-1.1A(e) whether made pursuant to this Article or some other provision of law; nor shall any licensee make any noncommercial loan in a principal amount in excess of twenty-five thousand dollars ($25,000)."

Sec. 4. G.S. 24-14(a) is amended by deleting "one and one-third percent (1-1/3%)" and substituting for the deleted language "one and one-half percent (1-1/2%)."

Sec. 5. This act shall become effective 10 days after ratification except that the Commissioner of Banks shall have the authority to set a maximum
rate effective on such tenth day as if this act had been in effect 30 days prior to ratification.

In the General Assembly read three times and ratified, this the 28th day of May, 1981.

S. B. 101  

CHAPTER 465

AN ACT TO AMEND G.S. 24-1.1 RELATING TO CONTRACT LOAN RATES AND TO ADD A NEW G.S. 24-1.1C.

The General Assembly of North Carolina enacts:

Section 1. G.S. 24-1.1 is rewritten to read:

"§ 24-1.1. Contract rates.—Except as otherwise provided in this Chapter or other applicable law, the parties to a loan, purchase money loan, advance, commitment for a loan or forbearance other than a credit card, open-end, or similar loan, may contract in writing for the payment of interest not in excess of:

(1) Where the principal amount is twenty-five thousand dollars ($25,000) or less, the rate set under subdivision (3) of this section; or

(2) Any rate agreed upon by the parties where the principal amount is more than twenty-five thousand dollars ($25,000).

As used in this section, interest shall not be deemed in excess of the rates provided where interest is computed monthly on the outstanding principal balance and is collected not more than 31 days in advance of its due date. Nothing in this section shall be construed to authorize the charging of interest on committed funds prior to the disbursement of said funds.

(3) On the fifteenth day of each month, the Commissioner of Banks shall announce and publish the maximum rate of interest permitted by subdivision (1) of this section on that date. Such rate shall be the latest published noncompetitive rate for U. S. Treasury bills with a six-month maturity as of the fifteenth day of the month plus six percent (6%), rounded upward or downward, as the case may be, to the nearest one-half of one percent (1/2 of 1%) or sixteen percent (16%), whichever is greater. If there is no nearest one-half of one percent (1/2 of 1%), the Commissioner shall round downward to the lower one-half of one percent (1/2 of 1%). The rate so announced shall be the maximum rate permitted for the following calendar month on all loans made under this section."

Sec. 2. Article 1 of Chapter 24 of the General Statutes is amended by adding a new section, G.S. 24-1.1C, to read as follows:

"§ 24-1.1C. Exempt loans.—Individuals may use any rates established in this Chapter, provided that an individual purchaser may contract with an individual seller for the payment of interest as agreed upon by the parties if such loan is a purchase money loan extended for the purchase of and secured by the principal residence of the seller, such principal residence being thereby conveyed to the purchaser."

Sec. 3. Section 1 of this act shall become effective 10 days after ratification except that the Commissioner of Banks shall have the authority to set a maximum rate effective on such tenth day as if this act had been in effect 30 days prior to ratification. Section 2 of this act is effective upon ratification and shall expire on July 1, 1983.
In the General Assembly read three times and ratified, this the 28th day of May, 1981.

S. B. 437

CHAPTER 466

AN ACT TO REQUIRE AREA MENTAL HEALTH AUTHORITIES TO COLLECT THE FEE CHARGED FOR ATTENDING AN ALCOHOL AND DRUG EDUCATION TRAFFIC SCHOOL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-179.2(a)(1) is rewritten to read as follows:

"(1) A fee of one hundred dollars ($100.00) shall be paid by all persons enrolling in an Alcohol and Drug Education Traffic School program established pursuant to this section. That fee must be paid to an official designated for that purpose and at a time and place specified by the Area Mental Health, Mental Retardation and Substance Abuse Authority providing the course of instruction in which the person is enrolled, except that if the clerk of court in the county in which the person is convicted agrees to collect the fees, the clerk shall collect all fees for persons convicted in that county. The clerk shall pay the fees collected to the area mental health, mental retardation and substance abuse authority for the catchment area where the clerk is located regardless of the location where the defendant attends the Alcohol and Drug Education Traffic School and that authority shall distribute the funds in accordance with the rules and regulations of the Department. The fee must be paid in full within two weeks of the date the person is convicted and before he attends any classes, unless the court, upon a showing of reasonable hardship, allows the person additional time to pay the fee or allows him to begin the course of instruction without paying the fee. If the person enrolling in the school demonstrates to the satisfaction of the court that ordered him to enroll in the school that he is unable to pay and his inability to pay is not willful, the court may excuse him from paying the fee."

Sec. 2. G.S. 20-179.2(a)(3) is rewritten to read as follows:

"(3) Fees collected under this section and retained by Area Mental Health, Mental Retardation, and Substance Abuse Authorities shall be placed in a nonreverting fund. That fund must be used, as necessary, for the operation, evaluation and administration of Alcohol and Drug Education Traffic School programs; excess funds may only be used to fund other drug or alcohol programs. Area authorities shall remit five percent (5%) of each fee collected to the Department of Human Resources on a monthly basis. Fees received by the department as required by this section may only be used in supporting, evaluating, and administering Alcohol and Drug Education Traffic Schools, and any excess funds will revert to the General Fund."

Sec. 3. G.S. 20-179.2(a)(4) is amended by deleting the words "from the clerks of court" and inserting in lieu thereof the words "under the authority of this section".

Sec. 4. G.S. 20-179(b)(1), as it appears in the 1980 Interim Supplement to the General Statutes, is amended on line 6 by deleting the figure "75" and inserting in lieu thereof the figure "90".

Sec. 5. G.S. 20-179(b)(2), as it appears in the 1980 Interim Supplement to the General Statutes, is amended by deleting the figure "75" from the first "Condition(s) of Restriction" and inserting in lieu thereof the figure "90".

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Sec. 6. G.S. 20-179(b)(5), as it appears in the 1980 Interim Supplement to the General Statutes, is amended on line 19 by deleting the figure “75” and inserting in lieu thereof the figure “90”.

Sec. 7. G.S. 20-140(e) is amended on line 8 by deleting the words and figure “within 75 days” and inserting in lieu thereof the words and figure “established pursuant to G.S. 20-179.2 within 90 days”.

Sec. 8. This act shall become effective October 1, 1981, and shall apply to persons assigned to Alcohol and Drug Education Traffic Schools on and after that date.

In the General Assembly read three times and ratified, this the 28th day of May, 1981.

S. B. 444  CHAPTER 467
AN ACT TO INCREASE THE VOTING MEMBERSHIP OF THE GOVERNOR’S CRIME COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-478(a) is amended by deleting the figure “29” and by substituting the following: “32”.

Sec. 2. G.S. 143B-478(a)(1)a. is amended by deleting the phrase “and the Secretary of the Department of Correction;” and by substituting the following: “the Secretary of the Department of Correction, and the Superintendent of Public Instruction;”.

Sec. 3. G.S. 143B-478(a)(1)d. is rewritten to read: “d. Two members of the North Carolina House of Representatives and two members of the North Carolina Senate.”

Sec. 4. G.S. 143B-478(b)(1) is amended by deleting from the end of the first sentence the phrase “and the Administrator for Juvenile Services of the Administrative Office of the Courts.” and by substituting the following: “, the Administrator for Juvenile Services of the Administrative Office of the Courts, and the Superintendent of Public Instruction.”

Sec. 5. G.S. 143B-478(b)(4) is amended by deleting the word “member” whenever it appears in the first sentence and by substituting the following word: “members”.

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of May, 1981.

S. B. 467  CHAPTER 468
AN ACT TO AMEND THE LAW REGARDING WRONGFUL DEATH BY CHANGING THE LIMIT ON MEDICAL EXPENSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 28A-18-2(a) is hereby amended by deleting after the word “exceeding” the phrase “five hundred dollars ($500.00)” and substituting the phrase “one thousand five hundred dollars ($1,500)”.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of May, 1981.

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H. B. 753

CHAPTER 469

AN ACT TO MAKE CLARIFYING AND TECHNICAL CHANGES TO THE JUVENILE CODE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-517(1)(d) is amended by deleting from the second sentence the word "Severe" and by substituting the following word "Serious".

Sec. 2. G.S. 7A-517 is amended by inserting between subdivisions (16) and (17) a new subdivision to read:

"(16.1) In loco parentis. A person acting in loco parentis means one, other than parents or legal guardian, who has assumed the status and obligation of a parent without being awarded the legal custody of a juvenile by a court."

Sec. 3. G.S. 7A-517(19) is rewritten as follows:

"(19) Judge. Any district court judge."

Sec. 4. G.S. 7A-524 is amended by deleting from the third sentence the phrase "is subject to prosecution" and by substituting the following: "shall be prosecuted".

Sec. 5. G.S. 7A-532 is amended by rewriting the third sentence to read:

"The intake process shall include the following steps if practicable:".

Sec. 6. G.S. 7A-536 is amended by rewriting the last sentence to read:

"At the conclusion of the review, the prosecution shall: (1) affirm the decision of the intake counselor or direct the filing of a petition and (2) notify the complainant of his action."

Sec. 7. G.S. 7A-547 is amended by deleting from the second sentence the phrase "the juvenile," and by substituting the following: "the juvenile, if practicable."

Sec. 8. G.S. 7A-550 is amended by inserting between the word "Article," and the word "testifies" the phrase "cooperates with the county department of social services in any ensuing inquiry or investigation."

Sec. 9. G.S. 7A-560 is amended by rewriting the first paragraph to read as follows:

"§ 7A-560. Petition.—The petition shall contain the name, date of birth, address of the juvenile, the name and last known address of his parent, guardian, or custodian and shall allege the facts which invoke jurisdiction over the juvenile. Except in cases in which delinquency or undisciplined behavior is alleged, the petition may contain information on more than one juvenile, when the juveniles are from the same home and are before the court for the same reason. In cases of alleged delinquency or undisciplined behavior, the petitions shall be separate."

Sec. 10. G.S. 7A-561 is amended by rewriting the first sentence of subsection (c) to read:

"(c) All complaints, and any decision of the intake counselor or of the director of social services not to authorize that a complaint be filed as a petition shall be reviewed by the prosecutor, if review is requested pursuant to G.S. 7A-535 or G.S. 7A-546."

Sec. 11. G.S. 7A-561 is amended by deleting in the second sentence of subsection (c) the phrase "with the clerk" and by substituting the following: "by the clerk."
Sec. 12. G.S. 7A-630 is amended by deleting the period "." and adding the following: "including detention, probable cause, adjudicatory, dispositional, probation revocation and conditional release hearings."

Sec. 13. The second sentence of G.S. 7A-577(a) is rewritten to read: "In every case in which an order has been entered by an official exercising authority delegated pursuant to G.S. 7A-573, a hearing to determine the need for continued custody shall be conducted on the day of the next regularly scheduled session of district court in the city or county where the order was entered if such session precedes the expiration of the five calendar day period: Provided, that if such session does not precede the expiration of the five calendar day period, the hearing may be conducted at another regularly scheduled session of district court in the district where the order was entered."

Sec. 14. G.S. 7A-587 is amended by adding a new sentence to the end to read: "In no case may the judge appoint a county attorney, prosecutor or public defender."

Sec. 15. G.S. 7A-609 is amended by adding a new sentence to the end of subsection (a) to read: "The judge may exclude the public from the hearing unless the juvenile moves that the hearing be open, which motion shall be granted."

Sec. 16. G.S. 7A-609(b)(2) is amended by deleting the phrase "may be represented" and substituting the following: "shall be represented."

Sec. 17. G.S. 7A-634(a) is amended by deleting from the second sentence the phrase "against the juvenile."

Sec. 18. G.S. 7A-640 is amended by adding a new sentence to the end to read: "The judge may exclude the public from the hearing unless the juvenile moves that the hearing be open, which motion shall be granted."

Sec. 19. G.S. 7A-647 is amended by deleting from the clauses preceding subdivision (1) the word "two."

Sec. 20. G.S. 7A-649(8) is amended by inserting a new sentence after the first to read: "In any case where a juvenile is placed on probation, the court counselor shall have the authority to visit the juvenile where he resides."

Sec. 21. G.S. 7A-289.2 is amended by deleting the phrase "G.S. 7A-278" from the first clauses preceding subdivision (1) and by substituting the following: "G.S. 7A-517"; and is further amended by deleting in subdivision (2) the phrase "G.S. 134-17." and by substituting the following: "G.S. 7A-655."; and is further amended by deleting in subdivision (7) the phrase "G.S. 7A-286(4)" and by substituting the following: "G.S. 7A-649(8)" and by deleting in the same subdivision (7) the phrase "by G.S. 110-22." and by substituting the following: "in that statute."

Sec. 22. G.S. 7A-289.6 is amended by deleting in subdivision (2) the phrase "as authorized by G.S. 7A-286(3)"; and is further amended by deleting in subdivision (3) the phrase "G.S. 110-22;" and substituting the following: "G.S.7A-658;".

Sec. 23. G.S. 7A-289.25 is amended by deleting in subdivision (4) the phrase "G.S. 7A-286(7);" and by substituting the following: "G.S. 7A-585."

Sec. 24. G.S. 8-53.1 is amended by deleting the phrase "Child Abuse Reporting Law, Article 8 of Chapter 110" and by inserting the following: "North Carolina Juvenile Code, Subchapter X1 of Chapter 7A."

Sec. 25. This act shall become effective October 1, 1981.
In the General Assembly read three times and ratified, this the 28th day of May, 1981.

H. B. 784 CHAPTER 470
AN ACT TO AMEND G.S. CHAPTERS 7A AND 15A TO LIMIT REVIEW OF DECISIONS OF THE COURT OF APPEALS ON CERTAIN MOTIONS FOR APPROPRIATE RELIEF.

The General Assembly of North Carolina enacts:

Section 1. G.S. Chapter 7A, Article 5, is amended by insertion therein of the following new section:

"§ 7A-28. Decisions of the Court of Appeals on certain motions for appropriate relief final.—Decisions of the Court of Appeals upon review of motions for appropriate relief listed in G.S. 15A-1415(b) are final and not subject to further review in the Supreme Court by appeal, motion, certification, writ, or otherwise."

Sec. 2. G.S. 7A-31(a) is amended by rewriting the first two sentences thereof to read as follows: "In any cause in which appeal is taken to the Court of Appeals, except a cause appealed from the North Carolina Utilities Commission, the North Carolina Industrial Commission, the North Carolina State Bar pursuant to G.S. 84-28, the Property Tax Commission pursuant to G.S. 105-345, or the Commissioner of Insurance pursuant to G.S. 58-9.4, or a motion for appropriate relief embracing subject matter covered by G.S. 7A-28, the Supreme Court may, in its discretion, on motion of any party to the cause or on its own motion, certify the cause for review by the Supreme Court, either before or after it has been determined by the Court of Appeals." In addition, the sixth sentence of G.S. 7A-31(a) is revised to read as follows: "Except in motions within the purview of G.S. 7A-28, the State may move for certification for review of any criminal cause, but only after determination of the cause by the Court of Appeals."

Sec. 3. G.S. 15A-1422 is amended by the addition of a new subsection, to read as follows:

"(f) Decisions of the Court of Appeals on motions for appropriate relief that embrace matter set forth in G.S. 15A-1415(b) are final and not subject to further review by appeal, certification, writ, motion, or otherwise."

Sec. 4. This act shall become effective October 1, 1981, and shall apply to all decisions of the Court of Appeals on G.S. 15A-1415(b) motions made on or after that date.

In the General Assembly read three times and ratified, this the 28th day of May, 1981.
CHAPTER 471  Session Laws—1981

H. B. 844  CHAPTER 471
AN ACT TO PERMIT CERTAIN INDIVIDUALS AS ADULTS TO PRESERVE LEGAL RESIDENCE CONFERRED ON THEM AS MINORS IN THE CONTEXT OF RESIDENTIARY STATUS FOR TUITION PURPOSES BY REASON OF G.S. 116-143.1(j).

The General Assembly of North Carolina enacts:

Section 1. G.S. 116-143.1(j) is hereby amended by adding at the end thereof a new paragraph to read as follows:

“Any person who immediately prior to his or her eighteenth birthday would have been deemed under this subsection a North Carolina legal resident but who achieves majority before enrolling at an institution of higher education shall not lose the benefit of this subsection if that person:

(1) upon achieving majority, acts, to the extent that the person’s degree of actual emancipation permits, in a manner consistent with bona fide legal residence in North Carolina; and

(2) begins enrollment at an institution of higher education not later than the fall academic term next following completion of education prerequisite to admission at such institution.”

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of May, 1981.

H. B. 862  CHAPTER 472
AN ACT TO CLARIFY WHEN A COURT CAN AWARD POSSESSION OF THE HOUSE AS A PART OF CHILD SUPPORT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 50-13.4(e) is amended by inserting in the first sentence between the words “in” and “real” the phrase “or possession of”.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of May, 1981.

H. B. 968  CHAPTER 473
AN ACT TO VALIDATE CERTAIN DIVORCE JUDGMENTS ENTERED WITHOUT A CONCLUSION OF LAW THAT THE PLAINTIFF WAS ENTITLED TO A DIVORCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 50-11.3 is amended by deleting the date “April 1, 1977” and substituting the date “January 1, 1981”.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of May, 1981.

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H. B. 1054  
CHAPTER 474
AN ACT TO MODIFY THE REQUIREMENTS FOR NOMINATING MEMBERS TO THE STATE BOARD OF COMMUNITY COLLEGES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115D-2.1(f) is amended by rewriting the ninth sentence as follows: "The committee of each house shall nominate at least one person for each place to be filled by that house."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of May, 1981.

H. B. 529  
CHAPTER 475
AN ACT TO MAKE THE UTILITY COMPANY, RATHER THAN THE CONTINGENCY AND EMERGENCY FUND, THE SOURCE OF FUNDS FOR THE PUBLIC STAFF FOR OUTSIDE ASSISTANCE IN COMMISSION PROCEEDINGS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 62-15(h) is amended to read:

"(h) The executive director is authorized to employ, subject to approval by the State Budget Officer, expert witnesses and such other professional expertise as the executive director may deem necessary from time to time to assist the Public Staff in its participation in commission proceedings, and the compensation and expenses therefor shall be paid by the utility or utilities participating in said proceedings. Such compensation and expenses shall be treated by the commission, for rate-making purposes, in a manner generally consistent with its treatment of similar expenditures incurred by utilities in the presentation of their cases before the commission. An accounting of such compensation and expenses shall be reported annually to the Utility Review Committee and to the Speaker of the House of Representatives and the President Pro Tempore of the Senate."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of May, 1981.

H. B. 609  
CHAPTER 476
AN ACT TO AMEND G.S. 62-133 RELATING TO RATE INCREASES OF INTRASTATE RAIL CARRIERS.

Whereas, in the past all rate increase applications for intrastate railroad traffic have been heard by the North Carolina Utilities Commission under the authority granted by G.S. 62-133; and

Whereas, the Congress of the United States enacted on October 15, 1980 the Staggers Rail Act of 1980, (Public Law 96-448, 94 Stat. 1895, 49 USC 10101, et seq.), which preempts the State's right to regulate general rate applications of intrastate rail carriers and all other requests for rate increases except for single commodity rate applications; and

Whereas, the Staggers Act of 1980 also sets out the guidelines for gaining absolute increases for single commodity rate applications, which must be adhered to by the various State regulatory agencies; and

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Whereas, the Staggers Rail Act of 1980 also places the burden on the State regulatory agencies to entertain the single commodity rate applications, it also absolutely exempts from the State regulatory agency those single commodity applications which are inflation-based rate increases and it also exempts fuel adjustment surcharges; and

Whereas, the Staggers Rail Act of 1980 has preempted the intrastate rail carrier regulatory procedure and set out mandatory parameters and thresholds which the State regulatory agency must follow, the ultimate fact being the State is a hearing forum for implementing the Federal Law; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Chapter 62, Article 7, Section 133, is amended by adding a new subsection (h) to read as follows:

"G.S. 62-133(h). The Commission is not authorized to entertain applications filed on behalf of intrastate rail carriers to fix rates for a single commodity or to fix rates for groups of commodities which constitute less than a general rate increase."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of May, 1981.

H. B. 614  CHAPTER 477

AN ACT RELATING TO BIDS AND PURCHASES OF THE CHARLOTTE-MECKLENBURG BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. The first sentence of G.S. 115-52 shall not apply for the purchase or exchange of supplies, equipment and materials amounting to thirty thousand dollars ($30,000) or less, not specifically under an applicable State purchase contract.

Sec. 2. G.S. 143-129, as it appears in the 1980 Interim Supplement to the General Statutes, is amended by deleting the words "five thousand dollars ($5,000)", and inserting in lieu thereof the words "thirty thousand dollars ($30,000)."

Sec. 3. This act applies only to the Charlotte-Mecklenburg Board of Education.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of May, 1981.
H. B. 928  

CHAPTER 478

AN ACT TO PROVIDE THAT AN ACT OF THE MAJORITY OF THE DIRECTORS OF AN ELECTRIC MEMBERSHIP CORPORATION PRESENT AT A MEETING AT WHICH A QUORUM IS PRESENT IS AN ACT OF THE BOARD.

The General Assembly of North Carolina enacts:

Section 1. The first sentence of G.S. 117-13 is rewritten to read:

"Each corporation formed under this Article shall have a board of directors, in which management of the affairs of the corporation is vested."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of May, 1981.

H. B. 1047  

CHAPTER 479

AN ACT TO MAKE UNIFORM PLAT, SUBDIVISION, AND MAPPING REQUIREMENTS APPLICABLE IN BRUNSWICK COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 47-30(k) is amended by deleting the word "Brunswick".

Sec. 2. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 29th day of May, 1981.

S. B. 135  

CHAPTER 480

AN ACT TO REQUIRE THAT THE CONVEYANCE OF PROPERTY USED FOR WASTE DISPOSAL CONTAIN NOTICE OF SUCH USE.

The General Assembly of North Carolina enacts:

Section 1. A new section is added to the General Statutes to read:

"§ 104E-10A. Conveyance of property used for radioactive material disposal.—A license to dispose of radioactive waste materials on land shall include a legal description of the disposal site that would be sufficient as a description in an instrument of conveyance. The license to dispose of radioactive waste materials shall not be effective unless the owner of the disposal site files a certified copy of the license in the register of deeds' office in the county or counties in which the site is located. The register of deeds shall record the certified copy of the license and index it in the grantor index under the name of the owner of the land. When any such site is sold, leased, conveyed or transferred in any manner, the deed or other instrument of transfer shall contain in the description section in no smaller type than that used in the body of the deed or instrument a statement that the property has been used as a disposal site for radioactive waste materials and a reference by book and page to the recordation of the license."

Sec. 2. G.S. 104E-23(a) is amended by adding at the end thereof a new sentence to read: "Any person who willfully violates the provisions of G.S. 104E-10A shall be guilty of a misdemeanor and, upon conviction, shall be punished as provided by law."
CHAPTER 480    Session Laws—1981

Sec. 3. G.S. 130-166.21 is rewritten to read:

"§130-166.21. Recordation of permits for disposal of waste on land.—(a) Whenever the Department of Human Resources approves a permit for a sanitary landfill or a facility for the disposal of hazardous waste on land, the owner of the facility shall be granted both an original permit and a copy certified by the secretary or his authorized representative. The permit shall include a legal description of the site that would be sufficient as a description in an instrument of conveyance.

(b) The owner of a facility granted a permit for a sanitary landfill or a facility for the disposal of hazardous waste on land shall file the certified copy of the permit in the register of deeds' office in the county or counties in which the land is located.

(c) The register of deeds shall record the certified copy and index it in the grantor index under the name of the owner of the land.

(d) The permit shall not be effective unless the certified copy is filed as required under subsection (b).

(e) When any sanitary landfill or a facility for the disposal of hazardous waste on land is sold, leased, conveyed or transferred in any manner, the deed or other instrument of transfer shall contain in the description section in no smaller type than that used in the body of the deed or instrument a statement that the property has been used as a sanitary landfill or a disposal site for hazardous waste and a reference by book and page to the recordation of the permit."

Sec. 4. G.S. 130-166.21E is amended by adding a new subsection to read:

“(g) Any person who willfully violates the provisions of G.S. 130-166.21 shall be guilty of a misdemeanor and, upon conviction, shall be punished as provided by law.”

Sec. 5. This act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 29th day of May, 1981.

S. B. 211    CHAPTER 481

AN ACT TO AMEND G.S. 136-89.56 TO PROVIDE FOR THE ESTABLISHMENT OF LOGOS ON CONTROLLED ACCESS HIGHWAYS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-89.56 is amended by adding a new paragraph after the last sentence to read as follows: "The location of fuel and other service facilities may be indicated to the users of the controlled access facilities by appropriate logos placed on signs owned, controlled, and erected by the Department of Transportation. The owners, operators or lessees of fuel and other service facilities who wish to place a logo identifying their business or service on a sign shall furnish a logo meeting the size, style and specifications determined by the Department of Transportation and shall pay the Department for the costs of initial installation and subsequent maintenance. The Board of Transportation shall have the authority to set an annual fee not less than the estimated cost of installation and maintenance."

Sec. 2. This act shall become effective at such time as sufficient money shall be appropriated, but in no event until July 1, 1981.
In the General Assembly read three times and ratified, this the 29th day of May, 1981.

S. B. 433

CHAPTER 482

AN ACT TO PROVIDE LIFETIME LICENSES FOR HUNTING AND FISHING AND TO CREATE AND MAINTAIN A WILDLIFE ENDOWMENT FUND WITH THE PROCEEDS.

The General Assembly of North Carolina enacts:

Section 1. Article 24 of Chapter 143 of the General Statutes of North Carolina is amended to add a new section 143-250.1 as follows:

“§ 143-250.1. Wildlife Endowment Fund.—(a) Recognizing the inestimable importance to the State and its people of conserving the wildlife resources of North Carolina, and for the purpose of providing the opportunity for citizens and residents of the State to invest in the future of its wildlife resources, there is created the North Carolina Wildlife Endowment Fund, the income and principal of which shall be used only for the purpose of supporting wildlife conservation programs of the State in accordance with this section. This fund shall also be known as the Eddie Bridges Fund.

(b) There is created the Board of Trustees of the Wildlife Endowment Fund of the Wildlife Resources Commission, with full authority over the administration of the Wildlife Endowment Fund, whose ex officio chairman, vice-chairman, and members shall be the chairman, vice-chairman, and members of the Wildlife Resources Commission. The State Treasurer shall be the custodian of the Wildlife Endowment Fund and shall invest its assets in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3.

(c) The assets of the Wildlife Endowment Fund shall be derived from the following:

(1) the proceeds of any gifts, grants and contributions to the State which are specifically designated for inclusion in the fund;
(2) the proceeds from the sale of lifetime sportsman combination licenses issued in accordance with G.S. 113-270.2(c)(1a), G.S. 113-271(d)(1c) and G.S. 113-272(d)(1a2);
(3) the proceeds from the sale of lifetime hunting and lifetime fishing licenses in accordance with G.S. 113-270.2(c)(3a) and G.S. 113-271(d)(2b);
(4) the proceeds of lifetime subscriptions to the magazine Wildlife in North Carolina at such rates as may be established from time to time by the Wildlife Resources Commission;
(5) any amount in excess of the statutory fee for a particular lifetime license or lifetime subscription shall become an asset of the fund and shall qualify as a tax exempt donation to the State;
(6) such other sources as may be specified by law.

(d) The Wildlife Endowment Fund is declared to constitute a special trust derived from a contractual relationship between the State and the members of the public whose investments contribute to the fund. In recognition of such special trust, the following limitations and restrictions are placed on expenditures from the funds:

(1) Any limitations or restrictions specified by the donors on the uses of the income derived from gifts, grants and voluntary contributions shall be respected but shall not be binding.

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(2) No expenditures or disbursements from the income from the proceeds derived from the sale of types I and Y lifetime sportsman combination licenses specified in G.S. 113-270.2(c)(1a), G.S. 113-271(d)(1c) and G.S. 113-272(d)(1a2) shall be made for any purpose until the respective holders of such licenses attain the age of 16 years. The State Treasurer, as custodian of the fund, shall determine actuarially from time to time the amount of income within the fund which remains encumbered by and which is free of this restriction. For such purpose, the Executive Director shall cause deposits of proceeds from type I licenses to be distinguished and deposits of proceeds from type Y licenses to be accompanied by information as to the ages of the license recipients.

(3) No expenditure or disbursement shall be made from the principal of the Wildlife Endowment Fund except as otherwise provided by law.

(4) The income received and accruing from the investments of the Wildlife Endowment Fund must be spent only in furthering the conservation of wildlife resources and the efficient operation of the North Carolina Wildlife Resources Commission in accomplishing the purposes of the agency as set forth in G.S. 143-239.

(e) The board of trustees of the Wildlife Endowment Fund may accumulate the investment income of the fund until the income, in the sole judgment of the trustees, can provide a significant supplement to the budget of the Wildlife Resources Commission. After that time the trustees, in their sole discretion and authority, may direct expenditures from the income of the fund for the purposes set out in division (4) of subsection (d).

(f) Expenditure of the income derived from the Wildlife Endowment Fund shall be made through the State budget accounts of the Wildlife Resources Commission in accordance with the provisions of the Executive Budget Act. The Wildlife Endowment Fund is subject to the oversight of the State Auditor pursuant to G.S. 147-58.

(g) The Wildlife Endowment Fund and the income therefrom shall not take the place of State appropriations or agency receipts placed in the Wildlife Resources Fund, or any part thereof, but any portion of the income of the Wildlife Endowment Fund available for the purpose set out in division (4) of subsection (d) shall be used to supplement other income of and appropriations to the Wildlife Resources Commission to the end that the Commission may improve and increase its services and become more useful to a greater number of people.

(h) In the event of a future dissolution of the Wildlife Resources Commission, such State agency as shall succeed to its budgetary authority shall, ex officio, assume the trusteeship of the Wildlife Endowment Fund and shall be bound by all the limitations and restrictions placed by this section on expenditures from the fund. No repeal or modification of this section or of G.S. 143-239 shall alter the fundamental purposes to which the Wildlife Endowment Fund may be applied. No future dissolution of the Wildlife Resources Commission or substitution of any agency in its stead shall invalidate any lifetime license issued in accordance with G.S. 113-270.2(c)(1a) or (3a), G.S. 113-271(d)(1c) or (2b), or G.S. 113-272(d)(1a2).”

Sec. 2. The third paragraph of G.S. 143-250 is amended to delete the opening phrase “On and after July 1, 1947,” and to insert in lieu thereof “Except as otherwise specifically provided by law,”.
Sec. 3. Subsection (b) of G.S. 113-306 is amended to read as follows:
"(b) Except as otherwise specifically provided by law, all money credited to,
held by, or to be received by the Wildlife Resources Commission from the sale
of licenses authorized by this Subchapter must be consolidated and placed in
the Wildlife Resources Fund."

Sec. 4. Subsection (c) of G.S. 113-270.2 is amended as follows:
(1) By inserting a new subdivision (1a) to read as follows:
"(1a) Lifetime sportsman combination licenses. These licenses are valid only
for use by individual holders and are of the following types depending on the
holders' ages on the dates of issue:
   a. Type I available only to an individual under one year of age—$100.00.
   b. Type Y available only to an individual under 12 years of age—$200.00.
   c. Type A available to a resident individual of any age—$300.00."
(2) By inserting a new subdivision (3a) to read as follows:
"(3a) Lifetime resident State hunting license—$150.00. This license is valid
only for use by an individual resident of the State."

Sec. 5. Subsection (d) of G.S. 113-271 is amended as follows:
(1) By inserting a new subdivision (1c) to read as follows:
"(1c) Lifetime sportsman combination licenses. These licenses are valid only
for use by individual holders and are of the following types depending on the
holders' ages on the dates of issue:
   a. Type I available only to an individual under one year of age—$100.00.
   b. Type Y available only to an individual under 12 years of age—$200.00.
   c. Type A available to a resident individual of any age—$300.00."
(2) By inserting a new subdivision (2b) to read as follows:
"(2b) Lifetime resident State fishing license—$150.00. This license is valid
only for use by an individual resident of the State."

Sec. 6. Subsection (d) of G.S. 113-272 is amended by inserting a new
subdivision (1a2) to read as follows:
"(1a2) Lifetime sportsman combination licenses. These licenses are valid only
for use by individual holders and are of the following types depending on the
holders' ages on the dates of issue:
   a. Type I available only to an individual under one year of age—$100.00.
   b. Type Y available only to an individual under 12 years of age—$200.00.
   c. Type A available to a resident individual of any age—$300.00."

Sec. 7. The first line of G.S. 113-270.3(d) is amended to add the words
"lifetime or" after the word "valid" and before the word "resident".

Sec. 8. G.S. 113-272.3 is amended as follows:
(1) By inserting in the caption a semicolon following the word "nets" and
adding the following clause in the caption:
"lifetime licenses issued from Wildlife Resources Commission headquarters".
(2) By inserting a new subsection (c) to read as follows:
"(c) Lifetime licenses are issued from the Wildlife Resources Commission
headquarters. Each application for a Type I or Type Y lifetime sportsman
combination license must be accompanied by a certified copy of the birth
certificate of the individual to be named as the license holder."

Sec. 9. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of
May, 1981.
CHAPTER 483  Session Laws—1981

S. B. 507  CHAPTER 483
AN ACT CONCERNING BUDGET PREPARATION AND FINANCING OF THE BUNCOMBE COUNTY BOARD OF TAX SUPERVISION.

The General Assembly of North Carolina enacts:

Section 1. Section 8 of Chapter 802, Session Laws of 1971, is amended by striking out the words "and City Council" both times they appear.

Sec. 2. The first paragraph of Section 9 of Chapter 802, Session Laws of 1971, is rewritten to read:

"The Board shall annually prepare a budget for the office of County Tax Supervisor and the office of the County Tax Collector, pursuant to the Local Government Budget and Fiscal Control Act. The budget shall be submitted to the Board of Commissioners not later than May 1 of each year. The Board of Commissioners may make any modifications in the budget that they deem advisable. The City of Asheville shall appropriate in each fiscal year an amount equal to one and one-half percent (1 1/2%) of the taxes collected on behalf of the city, in the immediate preceding year, including penalties, interest and discoveries, and shall pay said amount to the County of Buncombe in monthly installments commencing July 1 for services provided by the Board of Tax Supervision."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of May, 1981.

S. B. 526  CHAPTER 484
AN ACT TO REPEAL THE AUTHORITY OF THE GASTON COUNTY BOARD OF COMMISSIONERS TO ABOLISH THE GASTON COUNTY POLICE FORCE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 791, Session Laws of 1973, is repealed.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of May, 1981.

S. B. 32  CHAPTER 485
AN ACT TO PROVIDE A MARSHAL FOR THE COURT OF APPEALS.

The General Assembly of North Carolina enacts:

Section 1. Article 4 of Chapter 7A of the General Statutes is hereby amended by adding a new section to be designated G.S. 7A-21 and to read as follows:

"§ 7A-21. Court of Appeals marshal.—The Court of Appeals may appoint a marshal to serve at its pleasure and to perform such duties as it may assign. The marshal shall have the criminal and civil powers of a sheriff and any additional powers necessary to execute the orders of the appellate division in any county of the State. His salary shall be fixed by the Administrative Officer, subject to the approval of the Court of Appeals."

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 29th day of May, 1981.

S. B. 410  CHAPTER 486
AN ACT TO REWRITE THE LIQUEFIED PETROLEUM GASES SAFETY LAW.

The General Assembly of North Carolina enacts:

Section 1. Chapter 119, Article 4 of the General Statutes is hereby rewritten as follows:

"§ 119-48. Purpose; definitions.—It is the purpose of this Article to provide for the adoption and promulgation of a code of safety, and such rules and regulations setting forth minimum general standards of safety for the design, construction, location, installation, and operation of the equipment used in handling, storing, measuring, transporting, distributing, and utilizing liquefied petroleum gases and to provide for the administration and enforcement of the code and such rules and regulations thereby adopted. Words used in this Article shall be defined as follows:

(1) 'Board' means the North Carolina Board of Agriculture.
(2) 'Commissioner' means the Commissioner of Agriculture or his designated agent.
(3) 'Dealer' means any person, firm, or corporation who is engaged in or desires to engage in:
   a. The business of selling or otherwise dealing in liquefied petroleum gases which require handling, storing, measuring, transporting, or distributing liquefied petroleum gas; or
   b. The business of installing, servicing, repairing, adjusting, connecting, or disconnecting containers, equipment, or appliances which use liquefied gas. A person who engages in any of the aforementioned activities only in connection with his or his employer's use of liquefied petroleum gas and not as a business shall not be deemed to be a 'dealer' for the purposes of this Article.
(4) 'Liquefied petroleum gas' means any material which is composed predominantly of any of the following hydrocarbons, or mixtures of the same: propane, propylene, butanes (normal butanes or isobutane), butylenes.

"§ 119-49. Power of Board of Agriculture to set minimum standards; regulation by political subdivisions.—The Board shall have the power and authority to set minimum standards and promulgate rules and regulations for the design, construction, location, installation, and operation of equipment and facilities used in handling, storing, measuring, transporting, distributing, and utilizing liquefied petroleum gas.

Any municipality or political subdivision may adopt and enforce a safety code dealing with the handling of liquefied petroleum gas which conforms with the regulations adopted by the Board, and the inspection service rendered by such municipality or political subdivision shall conform to the requirements of the inspection service rendered by the Board in the enforcement of this Article.

"§ 119-50. Registration of dealers; liability insurance or bond required.—A person shall not hold himself out as a dealer without first having registered as herein provided. A dealer shall annually on or before January 1 of each year register with the Commissioner on a form to be furnished by the Commissioner.

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Such form shall give the name and address of the dealer, the place or places of and type or types of business such dealer, and such other pertinent information as the Commissioner may deem necessary.

A dealer shall obtain and maintain comprehensive general liability insurance including product liability of one hundred thousand dollars ($100,000) combined single limits and, when applicable, comprehensive automobile liability insurance of one hundred thousand dollars ($100,000) combined single limits. Verification of said insurance coverage shall be made in a manner satisfactory to the Commissioner. In lieu of insurance, the dealer may file and maintain a bond in a form satisfactory to the Commissioner which provides protection for the public in the same amounts and to the same extent as said insurance.

The provisions of this section shall not apply to a dealer who retails liquefied petroleum gas in containers of less than 50 pounds water capacity and which retailing does not involve the filling of such containers.

"§ 119-51. Administration of Article; rules and regulations given force and effect of law.—It shall be the duty of the Commissioner to administer all the provisions of this Article and all the rules and regulations made and promulgated under this Article; to investigate for violations of this Article and the rules and regulations adopted pursuant to the provisions thereof, and to prosecute violations of this Article or of such rules and regulations adopted pursuant to the provisions thereof.

"§ 119-52. Unlawful acts.—(a) It shall be an unlawful act for any person to:

1. sell any gas burning appliance designed or built for domestic use which has not been approved by the American Gas Association, Inc., the Underwriters Laboratory, Inc., or other laboratory approved by the Commissioner of Agriculture;
2. install any unvented space heating appliance in a mobile home as defined in G.S. 143-145(7);
3. install any unvented space heating appliance in a sleeping room that has an input of over 30 BTU per cubic feet of enclosure;
4. fill a consumer tank or container in excess of 85 percent (85%) of its water capacity, or to fill a tank or container on the premises of a consumer that is not equipped with a fill tube or gauge; provided, said tank or container may be filled by weight if the tank or container is weighed before and after filling;
5. disconnect an appliance from a gas supply line without capping or plugging said line before leaving the premises;
6. turn on the gas after reestablishing an interrupted service without first having checked and closed all gas outlets;
7. violate any provisions of this Article or any rules and regulations promulgated thereunder.

(b) Every supply tank or container with its regulating equipment connected in a service system, shall be identified while in service by the supplier with an attached tag, label or other marking that includes the name of the person supplying liquefied petroleum gas to said system, and it shall be unlawful for any person, other than said supplier or the owner of the system, to disconnect, interrupt or fill said system with liquefied petroleum gas without the consent of said supplier. Provided, if another registered supplier is requested by the consumer to connect his service and is given permission by the consumer to do
so, the new supplier shall notify the former supplier before disconnecting the former service and connecting the new service and shall cap or plug all disconnected equipment outlets and leave said equipment in a condition consistent with this Article and the rules and regulations promulgated thereunder.

"§119-53. Penalty; injunction of violations.—A dealer violating any of the provisions of this Article, or any of the rules and regulations made and promulgated in accordance with the provisions of this Article, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by fine or imprisonment.

In addition the Commissioner or his agent may apply to any superior court judge and the court may temporarily restrain or preliminarily or permanently enjoin any violation of this Article or any of the rules or regulations made and promulgated thereunder."

Sec. 2. The insurance coverage provisions of G.S. 119-50 as rewritten herein shall become effective on all policies written after July 1, 1981, and in no event shall any policy in force after July 1, 1982, fail to meet the said insurance coverage provisions.

Sec. 3. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 1st day of June, 1981.

H. B. 833

CHAPTER 487

AN ACT TO EXEMPT ENERGY RELATED SERVICES FROM PAYMENTS MADE IN LIEU OF TAXES BY JOINT MUNICIPAL ELECTRIC POWER AND ENERGY PROJECTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 159B-27(c) is rewritten to read:

"(c) Each joint agency shall pay to the State in lieu of an annual franchise or privilege tax an amount equal to six percent (6%) of the gross receipts from sales of electric power or energy, less, however, such amounts as such joint agency pays for the purchase of electric power and energy and related services from vendors taxed on such amounts under G.S. 105-116 and less amounts sold to any other person, firm or corporation engaged in selling such commodities or services to the public for which taxes are paid to this State."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of June, 1981.
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H. B. 950  CHAPTER 488

AN ACT TO PROVIDE THAT AN EMPLOYEE MAY RETAIN THE RIGHTS TO HIS INDEPENDENTLY CREATED INVENTIONS NOTWITHSTANDING AN EMPLOYMENT AGREEMENT TO THE CONTRARY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 66 of the General Statutes is amended by adding a new Article, 10A, to read:

"Article 10A.

"Inventions Developed by Employee.

"§ 66-57.1. Employee's right to certain inventions.—Any provision in an employment agreement which provides that the employee shall assign or offer to assign any of his rights in an invention to his employer shall not apply to an invention that the employee developed entirely on his own time without using the employer's equipment, supplies, facility or trade secret information except for those inventions that (i) relate to the employer's business or actual or demonstrably anticipated research or development, or (ii) result from any work performed by the employee for the employer. To the extent a provision in an employment agreement purports to apply to the type of invention described, it is against the public policy of this State and is unenforceable. The employee shall bear the burden of proof in establishing that his invention qualifies under this section.

"§ 66-57.2. Employer - rights.—An employer may not require a provision of an employment agreement made unenforceable under G.S. 66-57.1 as a condition of employment or continued employment. An employer, in an employment agreement, may require that the employee report all inventions developed by the employee, solely or jointly, during the term of his employment to the employer, including those asserted by the employee as nonassignable, for the purpose of determining employee or employer rights. If required by a contract between the employer and the United States or its agencies, the employer may require that full title to certain patents and inventions be in the United States."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of June, 1981.

S. B. 388  CHAPTER 489

AN ACT TO REPEAL AND AMEND THE YOUTH EMPLOYMENT PROVISIONS OF G.S. 95-25.5 OF THE WAGE AND HOUR ACT.

Whereas, the North Carolina Department of Labor has given close and careful attention to regulating youth employment pursuant to the Wage and Hour Act as now written; and

Whereas, there is an apparent need to clarify the act by amending and repealing certain youth employment provisions to insure the health and safety of youths and at the same time to provide regulation of youth employment that compliments but does not unnecessarily duplicate the regulation of child labor by the Fair Labor Standards Act; Now, therefore,

The General Assembly of North Carolina enacts:
Section 1. G.S. 95-25.5, as the same appears in the 1979 Cumulative Supplement to Volume 2C of the General Statutes, is hereby amended by rewriting subsection (a) to read as follows:

“(a) No youth under 18 years of age shall be employed by any employer in any occupation without a youth employment certificate unless specifically exempted. The Commissioner of Labor shall prescribe regulations for youths and employers concerning the issuance, maintenance and revocation of certificates. Certificates will be issued by county directors of social services, subject to review by the Department of Labor; provided, the Commissioner may by regulation require that the Department of Labor issue certificates for occupations with unusual or unique characteristics.”

Sec. 2. G.S. 95-25.5 is further amended by rewriting subsection (b) to read as follows:

“(b) No youth under 18 years of age may be employed by an employer in any occupation which the United States Department of Labor shall find and by order declare to be hazardous and without exemption under the Fair Labor Standards Act, or in any occupation which the Commissioner of Labor after public hearing shall find and declare to be detrimental to the health and wellbeing of youths.”

Sec. 3. G.S. 95-25.5 is further amended by striking from subsection (c) the words “An employer may employ minors 14 and 15 years old” in line 8 and substituting in lieu thereof the words “No youth 14 or 15 years of age may be employed by an employer in any occupation except those determined by the United States Department of Labor to be permitted occupations under the Fair Labor Standards Act; provided, such youths may be employed by employers”.

G.S. 95-25.5(c) is further amended by striking the word “minor” twice from subdivision (1) in line 10, from subdivision (2) in line 13, from subdivision (3) in line 15, and from subdivision (4) in line 19, and substituting in lieu thereof the word “youth”.

Sec. 4. G.S. 95-25.5 is further amended by striking from subsection (d) the words “An employer may employ minors 12 and 13 years of age” in line 24 and substituting in lieu thereof the words “No youth 13 years of age or less may be employed by an employer, except youths 12 and 13 years of age may be employed”.

G.S. 95-25.5(d) is further amended by striking the word “person” in line 26 and substituting in lieu thereof the word “youth”.

Sec. 5. G.S. 95-25.5 is further amended by striking from subsection (e) the word “minor” at line 29 and substituting in lieu thereof the word “youth”.

Sec. 6. G.S. 95-25.5 is further amended by striking from subsection (f) the words “The Commissioner may waive for any minor over 12 years of age” in line 32 and substituting in lieu thereof the words “For any youth 13 years of age or older, the Commissioner may waive”.

G.S. 95-25.5(f) is further amended by striking the words “when the best interest of a minor 12 years of age or older are served by allowing him to work” from subdivision (1) in lines 37 and 38 and substituting in lieu thereof the words “and how the best interest of the youth is served by allowing a waiver”.

G.S. 95-25.5(f) is further amended by striking the word “minor” from subdivision (2) in line 39 and substituting in lieu thereof the word “youth”.

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G.S. 95-25.5(f) is further amended by inserting the words "a letter from the North Carolina Alcohol Beverage Control Commission" immediately following the word "services" and immediately preceding the words "or school" in line 36.

Sec. 7. G.S. 95-25.5 is further amended by adding five new subsections immediately following subsection (f), to be designated subsections (g), (h), (i), (j) and (k), and to read as follows:

"(g) Youths employed as models, or as actors or performers in motion pictures or theatrical productions, or in radio or television productions are exempt from all provisions of this section except the certificate requirements of subsection (a).

(h) Youths employed by an outdoor drama directly in production-related positions such as stagehands, lighting, costumes, properties and special effects are exempt from all provisions of this section except the certificate requirements of subsection (a). Positions such as office workers, ticket takers, ushers and parking lot attendants have no exemption and are subject to all provisions of this section.

(i) Youths under 16 years of age employed by their parents are exempt from all provisions of this section, except the certificate requirements of subsection (a), the prohibition from hazardous or detrimental occupations of subsection (b), and the prohibitions of subsection (j).

(j) No person who holds any ABC permit issued pursuant to the provisions of Chapter 18A of the General Statutes for the on-premises sale or consumption of intoxicating liquors, including any mixed beverages, shall employ a youth:

1. under 16 years of age on the premises for any purpose;
2. under 18 years of age to prepare, serve, dispense or sell any intoxicating liquors, including mixed beverages.

(k) Persons and establishments required to comply with or subject to regulation of child labor under the Fair Labor Standards Act are exempt from all provisions of this section, except the certificate requirements of subsection (a), the prohibition from occupations found and declared to be detrimental by the Commissioner of Labor pursuant to subsection (b), and the prohibitions of subsection (j). In addition, employment certificates will not be issued if such person's employment will be in violation of the applicable child labor provisions of the Fair Labor Standards Act. Such employers may also be assessed civil penalties pursuant to G.S. 95-25.23 for each violation of the provisions of this section or any regulation issued hereunder from which there is no exemption."

Sec. 8. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 2nd day of June, 1981.
AN ACT TO IMPROVE THE LAWS RELATING TO THE COLLECTION OF MONEY JUDGMENTS AND THE EXEMPTIONS, PART 3, EXEMPTIONS.

The General Assembly of North Carolina enacts:

Section 1. A new Chapter 1C, Article 16 is added to the General Statutes:

"ARTICLE 16.
"EXEMPT PROPERTY.

"§ 1C-1601. Exempt property.—(a) Exempt property. Each individual, resident of this State, who is a debtor is entitled to retain free of the enforcement of the claims of his creditors:

(1) The debtor's aggregate interest, not to exceed seven thousand five hundred dollars ($7,500) in value, in real property or personal property that the debtor or a dependent of the debtor uses as a residence, in a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence, or in a burial plot for the debtor or a dependent of the debtor.

(2) The debtor's aggregate interest in any property, not to exceed two thousand five hundred dollars ($2,500) in value less any amount of the exemption used under subdivision (1).

(3) The debtor's interest, not to exceed one thousand dollars ($1,000) in value, in one motor vehicle.

(4) The debtor's aggregate interest, not to exceed two thousand five hundred dollars ($2,500) in value for the debtor plus five hundred dollars ($500) for each dependent of the debtor, not to exceed two thousand dollars ($2,000) total for dependents, in household furnishings, household goods, wearing apparel, appliances, books, animals, crops, or musical instruments, that are held primarily for the personal, family, or household use of the debtor or a dependent of the debtor.

(5) The debtor's aggregate interest, not to exceed five hundred dollars ($500) in value, in any implements, professional books, or tools of the trade of the debtor or the trade of a dependent of the debtor.

(6) Life insurance as provided in Article X, Section 5 of the Constitution of North Carolina.

(7) Professionally prescribed health aids for the debtor or a dependent of the debtor.

(8) Compensation for personal injury or compensation for the death of a person upon whom the debtor was dependent for support, but such compensation is not exempt from claims for funeral, legal, medical, dental, hospital, and health care charges related to the accident or injury giving rise to the compensation.

(b) Definition. 'Value' as used in this section means fair market value of an individual's interest in property, exclusive of valid liens.

(c) Waiver. The court may not permit waiver of the exemptions provided in this Article to the extent the exemptions are necessary to ensure the reasonable support needs of the judgment debtor's dependents. The exemptions provided in this Article cannot otherwise be waived except by:
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(1) transfer of property allocated as exempt (and in that event only as to the specific property transferred), or
(2) written waiver, after judgment, approved by the court. The court must find that the waiver is made freely, voluntarily, and with full knowledge of the debtor’s rights to exemptions and that he is not required to waive them;
(3) failure to assert the exemption after notice to do so pursuant to G.S. 1C-1603, if the court finds that the debtor had a reasonable opportunity to assert the exemption. The court may relieve such a waiver made by reason of mistake, surprise or excusable neglect, to the extent that the rights of innocent third parties are not affected.

(d) Recent purchases. The exemptions provided in subsections (2), (3), (4) and (5) of subsection (a) of this section are inapplicable with respect to tangible personal property purchased by the debtor less than 90 days preceding the initiation of judgment collection proceedings or the filing of a petition for bankruptcy.

(e) Exceptions. The exemptions provided in this Article are inapplicable to claims
(1) of the United States or its agencies as provided by federal law;
(2) of the State or its subdivisions for taxes or appearance bonds;
(3) of lien by a laborer for work done and performed for the person claiming the exemption, but only as to the specific property affected;
(4) of lien by a mechanic for work done on the premises, but only as to the specific property affected;
(5) for payment of obligations contracted for the purchase of the specific property affected;
(6) for the repair or improvement of the specific property affected;
(7) for contractual security interests in the specific property affected; provided, that the exemptions shall apply to the debtor’s household goods notwithstanding any contract for a nonpossessory, nonpurchase money security interest in any such goods;
(8) for statutory liens, on the specific property affected, other than judicial liens;
(9) for child support or alimony order pursuant to Chapter 50 of the General Statutes.

(f) Federal Bankruptcy Act. The exemptions provided in The Bankruptcy Act, 11 U.S.C. § 522(d), are not applicable to residents of this State. The exemptions provided by this Article shall apply for purposes of The Bankruptcy Act, 11 U.S.C. § 522(b).

“§ 1C-1602. Alternative exemptions.—If the allocation of amounts provided in this Article is insufficient to meet constitutionally mandated exemptions, the court may upon motion of the debtor assign as exempt the additional property required to satisfy those requirements. If the debtor elects to take the personal property and homestead exemptions provided in Article X of the Constitution of North Carolina in property other than that exempted by G.S. 1C-1601, then the exemptions provided by G.S. 1C-1601 shall not apply and in that event the exemptions provided in this Article shall not be construed so as to affect the personal property and homestead exemptions granted by Article X of the Constitution of North Carolina.
"§ 1C-1603. Procedure for setting aside exempt property.—(a) Motion or Petition; Notice.

(1) A judgment debtor may have his exempt property designated in a separate action before the clerk or a district court judge, by a motion or petition in a pending case (except a case before a magistrate), or in a proceeding relating to the enforcement of a money judgment (including an execution or a supplemental proceeding).

(2) A judgment creditor may have the exempt property of the debtor designated in a proceeding to enforce a money judgment (including an execution or a supplemental proceeding).

(3) In a proceeding for the enforcement of a money judgment (including an execution or a supplemental proceeding) the court may determine that particular property is not exempt even though there has been no proceeding to designate the exemption.

(4) If it appears in a proceeding for enforcement of a money judgment (including an execution or a supplemental proceeding) that exempt property may be affected and there has been no allocation of exempt property, the court must cause notice to be served upon the judgment debtor advising him of his rights. The notice must be substantially in the following form:

NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

DISTRICT COURT DIVISION

CvD

Judgment Creditor

vs.

Judgment Debtor

GREETINGS:

You have been named as a 'judgment debtor' in a proceeding initiated by a 'judgment creditor'. A 'judgment debtor' is a person who a court has declared owes money to another, the 'judgment creditor'. The purpose of this proceeding is to make arrangements to collect that debt from you personally or from property you own.

It is important that you respond to this notice no later than twenty (20) days after you receive it because you may lose valuable rights if you do nothing. You may wish to consider hiring an attorney to help you with this proceeding to make certain that you receive all the protections to which you are entitled under the North Carolina Constitution and laws.

(b) Contents of motion or petition. The motion or petition must:

(1) name the judgment debtor;

(2) name the judgment creditors of the debtor insofar as they are known to the movant;

(3) if it is a motion to modify a previously allocated exemption, describe the change of condition (if the movant received notice of the exemption hearing) and the modification desired.

(c) Statement by the debtor. When proceedings are instituted, the debtor must file with the court a schedule of:
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(1) his assets, including their location;
(2) his debts and the names and addresses of his creditors;
(3) the property which he desires designated as exempt.
The form for the statement must be substantially as follows:

NORTH CAROLINA  IN THE GENERAL COURT OF
COUNTY  JUSTICE
DIVISION

Judgment Creditor  
)  SCHEDULE OF DEBTOR’S
)  PROPERTY AND
vs.  )  REQUEST TO SET ASIDE
)  EXEMPT PROPERTY
Judgment debtor  )

I,  (fill in your name) , being duly sworn do depose and say:
1. That I am a citizen and resident of _______________
County, North Carolina;
2. That I was born on (date of birth);
3. That I am (married to (spouse’s name)) (not married);
4. That the following persons live in my household and are in substantial need of my support:

<table>
<thead>
<tr>
<th>NAME</th>
<th>RELATIONSHIP TO DEBTOR</th>
<th>AGE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
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</tr>
</tbody>
</table>

(Use additional space, as necessary)

5. That (I own) (I am purchasing) (I rent) (choose one; mark out the other choices) a (house) (trailer) (apartment) (choose one; mark out the other choices) located at (address, city, zip code) which is my residence.

6. That I (do) (do not) own any other real property. If other real property is owned, list that property on the following lines; if no other real property is owned, mark ‘not applicable’ on the first line.

7. That the following persons are, so far as I am able to tell, all of the persons or companies to whom I owe money:

<table>
<thead>
<tr>
<th>NAME</th>
<th>RELATIONSHIP</th>
<th>AGE</th>
</tr>
</thead>
<tbody>
<tr>
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<td></td>
<td></td>
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</tr>
</tbody>
</table>

8. That I wish to claim my interest in the following real or personal property that I use as a residence or my dependent uses as a residence. I also
wish to claim my interest in the following burial plots for myself or my dependents. I understand that my total interest claimed in the residence and burial plots may not exceed $7,500. I understand that I am not entitled to this exemption if I take the homestead exemption provided by the Constitution of North Carolina in other property.

Addresses of Owners of Record

Names of Owners of Record

Estimated Value

Amount of Liens

Amount of Debtor's Interest

9. That I wish to claim the following life insurance policies whose sole beneficiaries are (my wife) (my children) (my wife and children) as exempt:

<table>
<thead>
<tr>
<th>Name of Insurer</th>
<th>Policy Number</th>
<th>Face Value</th>
<th>Beneficiary(ies)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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<td></td>
<td></td>
</tr>
</tbody>
</table>

10. That I wish to claim the following items of health care aid necessary for (myself) (my dependents) to work or sustain health:

<table>
<thead>
<tr>
<th>Item</th>
<th>Purpose</th>
<th>Person using item</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

11. That I wish to claim the following implements, professional books, or tools (not to exceed $500), of my trade or the trade of my dependent. I understand that such property purchased within 90 days of this proceeding is not exempt:

<table>
<thead>
<tr>
<th>Item</th>
<th>Estimated Value</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

12. That I wish to claim the following personal property consisting of household furnishings, household goods, wearing apparel, appliances, books, animals, crops or musical instruments as exempt from the claims of my creditors. I affirm, that these items of personal property are held primarily for my personal, family or household use or for such use by my dependents.

I understand that I am entitled to personal property worth the sum of $2,500. I understand that I am also entitled to $500 for each person dependent on me for support, but not to exceed $2,000 for dependents. I further understand that I am entitled to this amount after deduction from the value of the property the amount of any valid lien or purchase money security interest and that property purchased within 90 days of this proceeding is not exempt.

<table>
<thead>
<tr>
<th>Item (or class)</th>
<th>Amount of Lien or Security Interest</th>
<th>Location</th>
<th>Estimated Value of Debtor's Interest</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
13. That I wish to claim my interest in the following motor vehicle as exempt from the claims of my creditors. I understand that I am entitled to my interest in a motor vehicle worth the sum of $1,000 after deduction of the amount of any valid liens or purchase money security interest. I understand that a motor vehicle purchased within 90 days of this proceeding is not exempt.

<table>
<thead>
<tr>
<th>Make and Year</th>
<th>Name(s) of Owner</th>
<th>Lien Holder(s) of Record</th>
<th>Estimated Value of Debtor's Interest</th>
</tr>
</thead>
<tbody>
<tr>
<td>Model and Title of Motor Vehicle</td>
<td>of Record</td>
<td>Name(s) of Record</td>
<td>of Record</td>
</tr>
</tbody>
</table>

14. That I wish to claim as exempt the following compensation which I received for the personal injury of myself or a person upon whom I was dependent for support or compensation which I received for the death of a person upon whom I was dependent for support. I understand that this compensation is not exempt from claims for funeral, legal, medical, dental, hospital or health care charges related to the accident or injury which resulted in the payment of the compensation to me.

(a) amount of compensation _________

(b) method of payment: lump sum or installments _________

(If installments, state amount, frequency and duration of payments)

(c) name and relationship to debtor of person(s) injured or killed giving rise to compensation _________

(d) location of compensation if received in lump sum or installments _________

(e) unpaid debts arising out of the injury or death giving rise to compensation _________

<table>
<thead>
<tr>
<th>Name and Address</th>
<th>Services Rendered</th>
<th>Amount of Debt</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

15. That I wish to claim the following property as exempt because I claimed residential real or personal property as exempt that is worth less than $2,500 or I made no claim for a residential exemption under section (8) above. I understand that I am entitled to $2,500 in any property only if I made no claim under section (8) above and that if I make a claim under section (8) above, that I am entitled to $2,500 in any property minus any amount I claimed under section (8). (Examples: claim of $1,000 under section (8), $1,500 allowed here; claim of $2,450 under section (8), $50 allowed here; claim of $2,600 under section (8), no claim allowed here.) I further understand that the amount of my claim under this section is after the deduction from the value of this property of the amount of any valid lien or purchase money security interests and that tangible personal property purchased within 90 days of this proceeding is not exempt.

<table>
<thead>
<tr>
<th>Property</th>
<th>Location</th>
<th>Amount of Liens or Purchase Money</th>
<th>Estimated Value of Security Interests</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
16. That the following is a complete listing of all of my assets which I have not claimed as exempt under any of the preceding paragraphs:

<table>
<thead>
<tr>
<th>Item</th>
<th>Location</th>
<th>Estimated value</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
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This the day of__________, 19__.

Judgment Debtor

Sworn to and Subscribed before me this day of__________, 19__.

Notary Public

My Commission Expires:

(d) Notice to persons affected.

(1) If the debtor does not initiate the proceeding, he must be served in the manner provided by G.S. 1A-1, Rule 4 with the petition, motion or notice directed by the court. He must then file the statement required by subsection (c) and may respond. Notice of the hearing may be given by debtor or creditor to any creditor.

(2) If the debtor initiates the proceeding, notice of the hearing must be given to each creditor scheduled by the debtor.

(e) Procedure for setting aside exempt property.

(1) The court must hold a hearing for the determination of the exempt property.

(2) If at the time for the hearing no objection has been made by a creditor or other interested person the judge may, if he finds it appropriate, enter an order designating the property scheduled by the debtor as exempt property.

(3) If objection is made the court must determine the value of the property. The court may appoint a qualified person to examine the property and report its value to the court. Compensation of that person must be advanced by the person requesting the valuation and is a court cost having priority over the claims.

(4) If the debtor fails to file the statement required by subsection (c) the court must determine whether the debtor had a reasonable opportunity to assert the exemption.

(5) The court must enter an order designating any exempt property and directing any steps necessary to designate it. Supplemental reports and orders may be filed and entered as necessary to reflect implementation of the order.

(6) The court may permit a particular item of property having value in excess of the allowable exemption to be retained by the debtor upon his making available to creditors money or property not otherwise available to them in an amount equivalent to the excess value. Priorities of creditors are the same in the substituted property as they were in the original property. The court may provide for the sale of property having
excess value and appropriate distribution of the proceeds at a time and in a manner fixed by the order.

(f) Notation of order on judgment docket. A notation of the order setting aside exempt property must be entered by the clerk of court on the judgment docket opposite the judgment that was the subject of the enforcement proceeding. If the exempt property is designated in a separate action, notation of the order shall be entered on the judgment docket.

(g) Modification. The debtor's exemption may be modified by motion in the original exemption proceeding by anyone who did not receive notice of the exemption hearing. Also, the debtor's exemption may be modified upon a change of circumstances, by motion in the original exemption proceeding, made by the debtor or anyone interested. A substantial change in value may constitute changed circumstances. Modification may include the substitution of different property for the exempt property.

(h) Determinations by clerk or judge. Determinations in any proceeding to set aside exempt property may be made by the clerk or judge.

"§ 1C-1604. Effect of exemption.—(a) Property allocated to the debtor as exempt is free of the enforcement of the claims of creditors for indebtedness incurred before or after the exempt property is set aside, other than claims excepted by G.S. 1C-1601(e), for so long as the debtor owns it. When the property is conveyed to another, the exemption ceases as to liens attaching prior to the conveyance. Creation of a security interest in the property does not constitute a conveyance within the meaning of this section, but a transfer in satisfaction of, or for the enforcement of, a security interest is a conveyance. When exempt property is conveyed, the debtor may have other exemptions allotted. The statute of limitation on judgments is suspended for the period of exemption, as to the property which is exempt.

(b) Exempt property which passes by bequest, devise intestate succession or gift to a dependent spouse, child or person to whom the debtor stands in loco parentis, continues to be exempt while held by that person. The exemption is terminated if the spouse remarries, or, with regard to a dependent, when the court determines that dependency no longer exists."

Sec. 2. G.S. 1-369 through G.S. 1-392 are repealed.

Sec. 3. This act shall become effective October 1, 1981, and applies to all actions and proceedings initiated before and after that date. If a proceeding has been initiated prior to that date the court may enter appropriate transitional orders.

In the General Assembly read three times and ratified, this the 2nd day of June, 1981.
H. B. 418

CHAPTER 491

AN ACT TO TRANSFER THE BUTNER PUBLIC SAFETY DEPARTMENT FROM THE DEPARTMENT OF HUMAN RESOURCES TO THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122-98 is rewritten to read:

"§ 122-98. Butner public safety department.—(a) The Secretary of Crime Control and Public Safety is authorized to employ special police officers for the territory embraced by the John Umstead Hospital site and any property adjacent to that site which is owned or leased by the Department of Human Resources or any other agency of the State. The territorial jurisdiction of these special police officers shall also include any property formerly a part of the John Umstead Hospital site which has subsequently been acquired from the Department of Human Resources by purchase or lease. The Secretary of Crime Control and Public Safety may organize these special police officers into a public safety department for that property and may locate that department within the principal department as permitted by the Executive Organization Act of 1973.

(b) After taking the oath of office required for law enforcement officers, the special police officers authorized by this section shall have the authority of law enforcement officers generally to arrest and undertake other law enforcement activities. Within the territorial jurisdiction stated in subsection (a), the special police officers shall enforce the laws of North Carolina and any ordinances or regulations applicable to that territory adopted under authority of this Article or under G.S. 122-16 or 122-16.1 or under the authority granted any other agency of the State."

Sec. 2. The Butner Public Safety Department is transferred by a type I transfer, as defined in G.S. 143A-6, from the Department of Human Resources to the Department of Crime Control and Public Safety. All transfers of personnel, equipment, appropriations, and functions shall be completed by September 1, 1981, but the Secretary of Crime Control and Public Safety shall have authority over the personnel, equipment, appropriations, and functions transferred by this section upon the effective date of this act.

Sec. 3. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 2nd day of June, 1981.

H. B. 431

CHAPTER 492

AN ACT TO CHANGE THE CALENDARING DATES FOR INCOMPETENCY HEARINGS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 35-1.16(b) is amended by rewriting the ninth paragraph to read:

"The hearing shall be held no earlier than seven and no later than 30 days after notice of the hearing is served and not before the clerk receives the multidisciplinary evaluation, if any."

Sec. 2. This act is effective upon ratification and applies to hearings petitioned for on or after this date.
CHAPTER 492 Session Laws—1981

In the General Assembly read three times and ratified, this the 2nd day of June, 1981.

H. B. 499 CHAPTER 493
AN ACT TO RAISE THE STATE MINIMUM WAGE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 95-25.3(a) is amended by deleting the words “and two dollars and ninety cents ($2.90) per hour effective July 1, 1980”, and inserting in lieu thereof the words: “two dollars and ninety cents ($2.90) per hour effective July 1, 1980, three dollars and ten cents ($3.10) per hour effective January 1, 1982 and three dollars and thirty-five cents ($3.35) per hour effective January 1, 1983”.

Sec. 2. G.S. 95-25.14(a)(6) is amended by deleting the word “four” and substituting the word “three”.

Sec. 3. This act shall become effective January 1, 1982.

In the General Assembly read three times and ratified, this the 2nd day of June, 1981.

H. B. 864 CHAPTER 494
AN ACT TO ALLOW A WOMAN TO RESUME HER MAIDEN NAME WHEN SHE IS DIVORCED IN ANOTHER STATE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 50-12 is amended by deleting from the second sentence the phrase “county in which said divorce” and substituting “county and state in which the divorce”.

Sec. 2. G.S. 50-12 is further amended by deleting the fourth sentence.

Sec. 3. G.S. 50-12 is further amended by deleting from the last sentence the phrase “Provided that in the complaint or crossbill for divorce filed by any woman” and substituting “In the complaint, or a counterclaim for divorce filed by any woman in this State”.

Sec. 4. G.S. 50-12 is further amended by deleting the words “upon the granting of the divorce in her favor”.

Sec. 5. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 2nd day of June, 1981.

S. B. 348 CHAPTER 495
AN ACT TO ALLOW THE DEPARTMENT OF AGRICULTURE TO CONTINUE TO IMPOSE FEES OR CHARGES IN COMPLIANCE WITH G.S. 12-3.1.

The General Assembly of North Carolina enacts:

Section 1. Chapter 81A of the General Statutes is amended by adding a new section to read as follows:

“§81A-10. Reimbursement of expenses.—When any manufacturer requests prototype approval of any commercial weighing or measuring device, said manufacturer shall reimburse the Department of Agriculture for expenses incurred in the prototype examination of the device before final prototype
approval is granted. Travel expenses shall be at the rates established by G.S. 138-6 or any law enacted in substitution therefor."

Sec. 2. G.S. 106-65.31(a) is hereby amended by adding the following sentence at the end of the first paragraph thereof:

"Any certified applicator whose employment is terminated with a licensee or agent prior to the end of said license year may at any time prior to the end of said license year be reissued a certified applicator’s identification card for the remainder of the license year as an employee of another licensee or agency or as an individual for a fee of five dollars ($5.00)."

Sec. 3. G.S. 106-65.29 is hereby amended by adding a new subsection (8) to read as follows: "(8) Fees for reinspection following a finding of a discrepancy, as defined by the Committee."

Sec. 4. G.S. 106-503 is amended by adding a new paragraph at the end thereof as follows:

"The Board of Agriculture may adopt regulations establishing fees or charges for admission to the State Fairgrounds and for services provided incidental to the use of the State Fairgrounds."

Sec. 5. G.S. 106-267 is amended by inserting the following between "products." and "and" on line 8: "to require processors of fortified milk and milk products to pay all costs for assays of vitamin-fortified products,"

Sec. 6. G.S. 106-277.15 is amended by adding a new subsection (9) to read as follows: "(9) Establishing fees and charges for agricultural and vegetable seed testing and analysis."

Sec. 7. G.S. 106-405.17 is amended by adding the following sentence at the end thereof: "The Board shall also have the authority to set fees for such tests as necessary to recover the costs to the North Carolina Department of Agriculture."

Sec. 8. G.S. 106-396 is amended by adding the following words at the end thereof, after the phrase "eradication of brucellosis" and before the period (.): ", including the establishment of fees and charges for the collection of blood samples."

Sec. 9. G.S. 106-22 is amended by adding a new subsection to read as follows: ", (17) Agronomic Testing. - Provide agronomic testing services and charge reasonable fees for plant analysis and nematode testing."

Sec. 10. Article 1 of Chapter 106 is amended by adding a new section, G.S. 106-6.1, to read:

"§ 106-6.1. Fees not to exceed actual cost.—Fees or charges established by any board or commission within the Department of Agriculture for services rendered or for duties performed shall not exceed the actual cost to the Department of rendering such service or performing such duty. As used herein, ‘cost’ shall mean expenses incurred for mileage, subsistence, postage, computer time, salaries, materials, supplies, or other similar expenses which are incurred as a direct result of rendering the service or performing the duty. As used herein, ‘cost’ shall not include fixed overhead expenses such as buildings, equipment, machinery, or other similar expenses which are indirectly related to a particular service or duty."

Sec. 11. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of June, 1981.
H. B. 292  CHAPTER 496
AN ACT TO AMEND CHAPTER 90, ARTICLE 6 OF THE GENERAL STATUTES RELATING TO OPTOMETRY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-116 is rewritten to read as follows:

"§ 90-116. Board of Examiners in Optometry.—In order to properly regulate the practice of optometry, there is established a North Carolina State Board of Examiners in Optometry, which shall consist of five regularly graduated optometrists who have been engaged in the practice of optometry in this State for at least five years and two members to represent the public at large.

No public member shall at any time be a health care provider, be related to or be the spouse of a health care provider, or have any pecuniary interest in the profitability of a health care provider. For purposes of this section, the term 'health care provider' shall have the same meaning as provided in G.S. 38-254.20(4). The Governor shall appoint the two public members not later than July 1, 1981.

The optometric members of the board shall be appointed by the Governor from a list provided by the North Carolina State Optometric Society. For each vacancy, the society must submit at least three names to the Governor. The society shall establish procedures for the nomination and election of optometrist members of the board. These procedures shall be adopted under the rule-making procedures described in Article 2, Chapter 150A of the General Statutes, and notice of the proposed procedures shall be given to all licensed optometrists residing in North Carolina. Such procedures shall not conflict with the provisions of this section. Every optometrist with a current North Carolina license residing in the State shall be eligible to vote in all such elections, and the list of licensed optometrists shall constitute the registration list for elections. Any decision of the society relative to the conduct of such elections may be challenged by civil action in the Wake County Superior Court. A challenge must be filed not later than 30 days after the society has rendered the decision in controversy, and all such cases shall be heard de novo.

All board members serving on June 30, 1981, shall be eligible to complete their respective terms. No member appointed to a term on or after July 1, 1981, shall serve more than two complete consecutive five-year terms, except that each member shall serve until his successor is chosen and qualifies.

The Governor may remove any member for good cause shown. Any vacancy in the optometrist membership of the board shall be filled for the period of the unexpired term by the Governor from a list of at least three names submitted by the North Carolina State Optometric Society Executive Council. Any vacancy in the public membership of the board shall be filled by the Governor for the unexpired term."

Sec. 2. G.S. 90-117.1 is amended by rewriting lines 1 through 4 to read as follows:

"§ 90-117.1. Quorum; adjourned meetings.—A majority of the members of said board shall constitute a quorum for the transaction of business. If a majority of members are not present at the time and the place appointed for a board meeting, those members of the board in attendance may adjourn."

Sec. 3. G.S. 90-117.3 is amended on line 4 by deleting the words "any three" and substituting therefor the words "a majority of the".
Sec. 4. G.S. 90-118(b) is amended by rewriting line 1 to read as follows:

"(b) The applicant shall be of good moral character and at least 18 years of age".

Sec. 5. G.S. 90-118(b) is further amended on line 4 by deleting the comma appearing between the words "character" and "has" and substituting therefor a semicolon, and by adding at the end of line 5 the word "and".

Sec. 6. Subsection (a) of G.S. 90-118.5 is rewritten to read as follows:

"(a) If an applicant for licensure is already licensed in another state in optometry, the North Carolina State Board of Examiners in Optometry shall issue a license to practice optometry to the applicant without examination other than a clinical practicum examination upon evidence that:

1. the applicant is currently an active, competent practitioner in good standing, and
2. the applicant has practiced at least three out of the five years immediately preceding his or her application, and
3. the applicant currently holds a valid license in another state, and
4. no disciplinary proceeding or unresolved complaint is pending anywhere at the time a license is to be issued by this State, and
5. the licensure requirements in the other state are equivalent to or higher than those required by this State."

Sec. 7. G.S. 90-118.5(b) is amended on line 5 by deleting the word "five" and substituting therefor the words "at least three out of five".

Sec. 8. G.S. 90-118.8(e) is amended on line 2 by deleting the citation "G.S. 90-121.1" and substituting therefor the citation "G.S. 90-121.2".

Sec. 9. G.S. 90-118.9(9) is amended by deleting the citation "G.S. 90-121" and substituting therefor the citation "G.S. 90-121.2".

Sec. 10. The title of G.S. 90-118.11 is rewritten to read as follows:

"§ 90-118.11. Unauthorized practice; penalty for violation of Article."

Sec. 11. G.S. 90-121.1 is amended by adding a new sentence at the end thereof to read as follows:

"Actions under this section shall be commenced in the judicial district in which the respondent resides or has his principal place of business."

Sec. 12. Subdivisions (8), (18) and (20) of G.S. 90-121.2(a) are hereby repealed.

Sec. 13. G.S. 90-121.2(a)(15) is amended by rewriting line 3 to read as follows:

"patients, including false or misleading advertising;".

Sec. 14. Article 6 of Chapter 90 of the General Statutes is amended by adding a new section at the end thereof to read as follows:

"§ 90-127.3. Copy of prescription furnished on request.—All persons licensed or registered under this Chapter shall upon request give each patient having received an eye examination a copy of his spectacle prescription. No person, firm or corporation licensed or registered under Article 17 of this Chapter shall fill a prescription or dispense lenses, other than spectacle lenses, unless the prescription specifically states on its face that the prescriber intends it to be for contact lenses and includes the type and specifications of the contact lenses being prescribed. The prescriber shall state the expiration date on the face of every prescription, and the expiration date shall be no earlier than 365 days after the examination date."
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Any person, firm or corporation that dispenses contact lenses on the prescription of a practitioner licensed under Articles 1 or 6 of this Chapter shall, at the time of delivery of the lenses, inform the recipient both orally and in writing that he return to the prescriber for insertion of the lens, instruction on lens insertion and care, and to ascertain the accuracy and suitability of the prescribed lens. The statement shall also state that if the recipient does not return to the prescriber after delivery of the lens for the purposes stated above, the prescriber shall not be responsible for any damages or injury resulting from the prescribed lens, except that this sentence does not apply if the dispenser and the prescriber are the same person.

Prescriptions filled pursuant to this section shall be kept on file by the prescriber and the person filling the prescription for at least 24 months after the prescription is filled."

Sec. 15. G.S. 143-34.12 is amended by deleting line 6, which reads as follows:

"Chapter 90, Article 6, entitled 'Optometry'."

Sec. 16. This act is effective upon ratification, except that Section 1 and Section 14 of this act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 3rd day of June, 1981.

H. B. 361  CHAPTER 497

AN ACT TO CONFORM STATE LAW TO THE FEDERAL LAW ON REGULATION FOR EDUCATION OF THE HANDICAPPED.

The General Assembly of North Carolina enacts:

Section 1. Chapter 423 of the 1981 Session Laws is amended by rewriting G.S. 115C-116(b), as it appears therein, to read as follows:

"(b) The parent or guardian of a child placed or denied placement in a program shall be notified promptly, via parent or guardian conference, or by registered or certified mail, return receipt requested, of his placement, denial or impending placement or denial. Such notice shall contain a statement informing the parent or guardian that he is entitled to review of the determination and of the procedure for obtaining such review. The notice shall contain information that a hearing may be had upon written request, no more than 30 days from the date on which the notice was received. This hearing shall be before an impartial hearing officer appointed by the local school board, the Secretary of Human Resources or the Secretary of Corrections depending on which agency has jurisdiction. The parent or guardian of a child or the local education agency may, upon written request, not more than 30 days from the date of a decision, appeal the decision of the hearing officer to the State Superintendent of Public Instruction. Any appeal of the decision of the State Superintendent of Public Instruction to the General Court of Justice must be filed within 30 days after notice of the decision."

Sec. 2. Chapter 423 of the 1981 Session Laws is amended by adding a new subsection (b1) to G.S. 115C-116, as it appears therein, to read:

"(b1) In addition to any other subpoenas that are authorized to be issued by law, a local board of education or its designee may issue subpoenas upon its own motion or upon a written request. When the written request is made by a party to the hearing, the board or its designee shall issue subpoenas forthwith.
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requiring the attendance and testimony of witnesses and the production of evidence including books, records, correspondence, and documents in their possession or under their control. On written request, the board or its designee shall revoke a subpoena if, upon a hearing the board or its designee finds that the evidence, the production of which is required, does not relate to a matter in issue, or if the subpoena does not describe with sufficient particularity the evidence the production of which is required, or if for any other reason sufficient in law the subpoena is invalid. Witness fees shall be paid by the party requesting the subpoena to subpoenaed witnesses in accordance with G.S. 7A-314. However, State officials or employees and officials or employees of a local board of education who are subpoenaed shall not be entitled to any witness fees, but they shall receive their normal salary and they shall not be required to take any annual leave for their witness days. Subject to availability of funds, travel expenses of State officials or employees who are subpoenaed shall be reimbursed as provided in G.S. 138-6.”

Sec. 3. This act is effective upon ratification. In the General Assembly read three times and ratified, this the 3rd day of June, 1981.

H. B. 219    CHAPTER 498

AN ACT TO AMEND THE COMPOSITION OF THE CHILD DAY-CARE LICENSING COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. The first paragraph of G.S. 143B-376 is rewritten to read:

"The Child Day-Care Licensing Commission of the Department of Administration shall consist of 15 members, one of whom shall be the Governor and 14 of whom shall be citizen members appointed by the Governor, Lieutenant Governor and Speaker of the House, as hereinafter provided. The Governor may designate a representative to sit in his place on the commission. The 14 citizen members shall be appointed by the Governor, Lieutenant Governor and Speaker of the House, as hereinafter provided, with provision that none shall be employees of the State. Seven of said appointees shall be operators of day-care facilities subject to licensing, five of whom are actively engaged in operation for profit and two of whom shall be operators of nonprofit facilities and the Speaker of the House shall appoint one of the operators of a nonprofit facility. Of the five operators who are operating for profit, one shall be from a facility licensed for no more than 29 children, two shall be from a facility licensed for no more than 70 children and the Lieutenant Governor shall appoint one of these two members, and two shall be from a facility licensed for more than 70 children and the Speaker of the House shall appoint one of these two members. Seven appointees shall be citizens not employed by day-care facilities who have no direct or indirect pecuniary interest in such, but four of whom shall be a parent of a child in day care at the time of their appointment. The Lieutenant Governor shall appoint one of the seven members not employed by day-care. The term of the Governor shall end on the day his term of office ends, whether by death, resignation, or expiration of such term. At the end of the respective terms of office of the members of the commission, their successors shall be appointed for terms of three years. Any member shall serve only so long as that member meets the qualifications for appointment.

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Any appointment to fill a vacancy on the commission created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term."

Sec. 2. Persons serving on the commission on the effective date of this act who meet the criteria established in Section 1 shall serve until the expiration of their respective terms or until their resignation or replacement for cause.

The Governor, Lieutenant Governor and Speaker of the House shall appoint the new members required by this act no later than December 31, 1981. Of the four new members who do not have a pecuniary interest in day-care facilities, one shall serve an initial term of one year, one shall serve an initial term of two years, and two shall serve initial terms of three years. Thereafter, all public members shall serve three-year terms.

Sec. 3. This act shall be effective on December 31, 1981.

In the General Assembly read three times and ratified, this the 4th day of June, 1981.

H. B. 988  CHAPTER 499
AN ACT TO PROVIDE ADDITIONAL AUTHORITY FOR THE PROTECTION OF STATE OFFICERS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 114 of the General Statutes is amended by adding a new Section 114-20.1 to read as follows:

"§ 114-20.1. Authority to designate areas for protection of public officials.—
(a) The Attorney General is authorized to designate buildings and grounds which constitute temporary residences or temporary offices of any public official being protected under authority of G.S. 114-20, or any area that will be visited by any such official, a public building or facility during the time of such use.

(b) The Attorney General or the Director of the State Bureau of Investigation may, with the consent of the official to be protected, make rules governing ingress to or egress from such buildings, grounds or areas designated under this section."

Sec. 2. G.S. 14.132(c) as it appears in Volume 1B of the General Statutes of North Carolina, 1969 Replacement, is amended by adding a new subparagraph (3) to read as follows:

"(3) Designated by the Attorney General in accordance with G.S. 114-20.1."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of June, 1981.
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S. B. 128  CHAPTER 500

AN ACT TO PROHIBIT THE MANUFACTURE, DELIVERY, SALE, POSSESSION AND USE OF DRUG PARAPHERNALIA.

The General Assembly of North Carolina enacts:

Section 1. Chapter 90 of the General Statutes is amended by adding the following new Article 5B:

"ARTICLE 5B.
Drug Paraphernalia.

"§ 90-113.15. Title.—This Article shall be known and may be cited as the 'North Carolina Drug Paraphernalia Act'.

"§ 90-113.16. General provisions.—(a) As used in this Article, 'drug paraphernalia' means all equipment, products and materials of any kind that are used to facilitate, or intended or designed to facilitate, violations of the Controlled Substances Act, including planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, and concealing controlled substances and injecting, ingesting, inhaling, or otherwise introducing controlled substances into the human body. 'Drug paraphernalia' includes, but is not limited to, the following:

(1) kits for planting, propagating, cultivating, growing, or harvesting any species of plant which is a controlled substance or from which a controlled substance can be derived;
(2) kits for manufacturing, compounding, converting, producing, processing, or preparing controlled substances;
(3) isomerization devices for increasing the potency of any species of plant which is a controlled substance;
(4) testing equipment for identifying, or analyzing the strength, effectiveness, or purity of controlled substances;
(5) scales and balances for weighing or measuring controlled substances;
(6) diluents and adulterants, such as quinine, hydrochloride, mannitol, mannite, dextrose, and lactose for mixing with controlled substances;
(7) separation gins and sifters for removing twigs and seeds from, or otherwise cleaning or refining, marijuana;
(8) blenders, bowls, containers, spoons, and mixing devices for compounding controlled substances;
(9) capsules, balloons, envelopes and other containers for packaging small quantities of controlled substances;
(10) containers and other objects for storing or concealing controlled substances;
(11) hypodermic syringes, needles, and other objects for parenterally injecting controlled substances into the body;
(12) objects for ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the body, such as:
   a. metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
   b. water pipes;
   c. carburetion tubes and devices;

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d. smoking and carburetion masks;
e. objects, commonly called roach clips, for holding burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
f. miniature cocaine spoons and cocaine vials;
g. chamber pipes;
h. carburetor pipes;
i. electric pipes;
j. air-driven pipes;
k. chillums;
l. bongs;
m. ice pipes or chillers.

(b) The following, along with all other relevant evidence, may be considered in determining whether an object is drug paraphernalia:

1. statements by the owner or anyone in control of the object concerning its use;
2. prior convictions of the owner or other person in control of the object for violations of controlled substances law;
3. the proximity of the object to a violation of the Controlled Substances Act;
4. the proximity of the object to a controlled substance;
5. the existence of any residue of a controlled substance on the object;
6. the proximity of the object to other drug paraphernalia;
7. instructions provided with the object concerning its use;
8. descriptive materials accompanying the object explaining or depicting its use;
9. advertising concerning its use;
10. the manner in which the object is displayed for sale;
11. whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a seller of tobacco products or agricultural supplies;
12. possible legitimate uses of the object in the community;
13. expert testimony concerning its use;
14. the intent of the owner or other person in control of the object to deliver it to persons whom he knows or reasonably should know intend to use the object to facilitate violations of the Controlled Substances Act.

"§90-113.17. Possession of drug paraphernalia.—(a) It is unlawful for any person to knowingly use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, package, repackage, store, contain, or conceal a controlled substance which it would be unlawful to possess, or to inject, ingest, inhale, or otherwise introduce into the body a controlled substance which it would be unlawful to possess.

(b) Violation of this section is a misdemeanor punishable by a fine of not more than five hundred dollars ($500.00), imprisonment for not more than one year, or both.

"§90-113.18. Manufacture or delivery of drug paraphernalia.—(a) It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia knowing that it will be
used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, package, repackage, store, contain, or conceal a controlled substance which it would be unlawful to possess, or that it will be used to inject, ingest, inhale, or otherwise introduce into the body a controlled substance which it would be unlawful to possess.

(b) Delivery, possession with intent to deliver, or manufacture with intent to deliver, of each separate and distinct item of drug paraphernalia is a separate offense.

(c) Violation of this section is a misdemeanor punishable by a fine of not less than one thousand dollars ($1,000), imprisonment for not more than two years, or both.

"§ 90-113.19. Advertisement of drug paraphernalia.——(a) It is unlawful for any person to purchase or otherwise procure an advertisement in any newspaper, magazine, handbill, or other publication, or purchase or otherwise procure an advertisement on a billboard, sign, or other outdoor display, when he knows that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia described in this Article.

(b) Violation of this section is a misdemeanor punishable by a fine of not more than five hundred dollars ($500.00), imprisonment for not more than six months, or both. However, delivery of drug paraphernalia by a person over 18 years of age to someone under 18 years of age who is at least three years younger than the defendant shall be punishable as a Class I felony."

Sec. 2. G.S. 90-113.4 is repealed.

Sec. 3. If any provision of this act or the application of it to any person or circumstances is held invalid, the invalidity does not affect any other provision of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Sec. 4. This act shall become effective October 1, 1981, and applies to acts committed on or after that date.

In the General Assembly read three times and ratified, this the 4th day of June, 1981.

S. B. 332

CHAPTER 501

AN ACT TO ELIMINATE THE APPLICATION AND DEFERRAL REQUIREMENTS FROM THE AD VALOREM TAXATION OF HISTORIC PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-278 is amended by deleting from subsection (a) thereof the following words and punctuation: "., upon annual application of the property owner.,".

Sec. 2. This act shall become effective January 1, 1982.

In the General Assembly read three times and ratified, this the 4th day of June, 1981.

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S. B. 354  CHAPTER 502
AN ACT TO CLARIFY THE AUTHORITY OF THE CAPITAL BUILDING AUTHORITY WITH RESPECT TO TERRITORIAL JURISDICTION AND AWARD OF INFORMAL CONTRACTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 129-42(1) is amended by deleting the words "in accordance with plans developed by the North Carolina Capital Planning Commission" appearing in lines 3, 4, and 5 thereof.

Sec. 2. G.S. 129-42(2) is amended by inserting at the end thereof a new sentence to read as follows:

"The Authority may delegate to the Department of Administration authority to award contracts for construction of buildings and other projects which are not required by G.S. 143-129 to be publicly advertised for proposals."

Sec. 3. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 4th day of June, 1981.

S. B. 449  CHAPTER 503
AN ACT TO ESTABLISH MINIMUM STANDARDS FOR MEDICARE SUPPLEMENT INSURANCE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 58 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 27B.

"Medicare Supplement Insurance Minimum Standards.

"§ 58-262.8. Definitions.—Unless the context clearly indicates otherwise, the following words and phrases shall have the following meanings:

(1) 'Applicant' means:
   a. in the case of an individual Medicare supplement policy or subscriber contract, the person who seeks to contract for insurance benefits; and
   b. in the case of a group Medicare supplement policy or subscriber contract, the proposed certificate holder.

(2) 'Certificate' means, for the purposes of this Article, any certificate issued under a group Medicare supplement policy, which policy has been delivered or issued for delivery in this State.

(3) 'Medicare Supplement Policy' means a group or individual policy of accident and sickness insurance or a subscriber contract of a hospital, medical and/or dental service corporation organized under Chapter 57 of the General Statutes which is advertised, marketed or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical or surgical expenses of persons eligible for Medicare by reason of age. Such term does not include:
   a. A policy or contract of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or combination thereof, or for members or former members, or combination thereof, of the labor organizations, or
b. A policy or contract of any professional, trade or occupational association for its members or former or retired members, or combination thereof, if such association:
   1. is composed of individuals all of whom are actively engaged in the same profession, trade or occupation;
   2. has been maintained in good faith for purposes other than obtaining insurance; and
   3. has been in existence for at least two years prior to the date of its initial offering of such policy or plan to its members.

   c. Individual policies or contracts issued pursuant to a conversion privilege under a policy or contract of group or individual insurance when such group or individual policy or contract includes provisions which are inconsistent with the requirements of this Article.

(4) 'Medicare' means the 'Health Insurance for the Aged Act', Title XVIII of the Social Security Amendments of 1965, as then constituted or later amended.

"§ 58-262.9. Standards for policy provisions definitions.—No insurance policy or subscriber contract may be advertised, solicited or issued for delivery in this State as a Medicare supplement policy unless that policy or subscriber contract contains definitions or terms which conform to the requirement of this section.

(1) 'Accident', 'Accidental Injury', or 'Accidental Means' shall be defined to employ ‘result’ language and shall not include words which establish an accidental means test or use words such as 'external, violent, visible wounds' or similar words of description or characterization.

   a. The definition shall not be more restrictive than the following: 'Injury or injuries for which benefits are provided means accidental bodily injury sustained by the insured person which is the direct result of an accident, independent of disease or bodily infirmity or any other cause, and occurs while insurance coverage is in force.'

   b. Such definition may provide that injuries shall not include injuries for which benefits are provided under any workers' compensation, employer’s liability or similar law, or injuries occurring while the insured person is engaged in any activity pertaining to any trade, business, employment, or occupation for wage or profit.

(2) 'Benefit Period' or 'Medicare Benefit Period' shall not be defined as more restrictive than as that defined in the Medicare program.

(3) 'Convalescent Nursing Home', 'Extended Care Facility', or 'Skilled Nursing Facility' shall be defined in relation to its status, facilities and available services.

   a. A definition of such home or facility shall not be more restrictive than one requiring that it:
      1. be operated pursuant to law;
      2. be approved for payment of Medicare benefits or be qualified to receive such approval, if so requested;
      3. be primarily engaged in providing, in addition to room and board accommodations, skilled nursing care under the supervision of a duly licensed physician;
      4. provide continuous 24 hours a day nursing service by or under the supervision of a registered graduate professional nurse (R.N.); and
      5. maintains a daily medical record of each patient.
b. The definition of such home or facility may provide that such term shall not be inclusive of:
   1. any home, facility or part thereof used primarily for rest;
   2. a home or facility for the aged or for the care of drug addicts or alcoholics; or
   3. a home or facility primarily used for the care and treatment of mental diseases or disorders, or custodial or educational care.

(4) ‘Hospital’ may be defined in relation to its status, facilities and available services or to reflect its accreditation by the Joint Commission on Accreditation of Hospitals.

   a. The definition of the term ‘hospital’ shall not be more restrictive than one requiring that the hospital:
      1. be an institution operated pursuant to law; and
      2. be primarily and continuously engaged in providing or operating, either on its premises or in facilities available to the hospital on a prearranged basis and under the supervision of a staff of duly licensed physicians, medical, diagnostic and major surgical facilities for the medical care and treatment of sick or injured persons on an inpatient basis for which a charge is made; and
      3. provide 24 hour nursing service by or under the supervision of registered graduate professional nurses (R.N.'s).

b. The definition of the term ‘hospital’ may state that such term shall not be inclusive of:
   1. convalescent homes, convalescent, rest, or nursing facilities; or
   2. facilities primarily affording custodial, educational or rehabilitative care; or
   3. facilities for the aged, drug addicts or alcoholics; or
   4. any military or veterans' hospital or soldiers' home or any hospital contracted for or operated by any national government or agency thereof for the treatment of members or ex-members of the armed forces, except for services rendered on an emergency basis where a legal liability exists for charges made to the individual for such services.

(5) 'Medicare' shall be defined in the policy. Medicare may be substantially defined as 'The Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965 as Then Constituted or Later Amended', or 'Title I, Part I of Public Law 39-97, as Enacted by the Eighty-Ninth Congress of the United States of America and popularly known as the Health Insurance for the Aged Act', 'as then constituted and any later amendments or substitutes thereof', or words of similar import.

(6) ‘Medicare Eligible Expenses’ shall mean health care expenses of the kinds covered by Medicare, to the extent recognized as reasonable by Medicare. Payment of benefits by insurers for Medicare eligible expenses may be conditioned upon the same or less restrictive payment conditions, including determinations of medical necessity as are applicable to Medicare claims.

(7) ‘Mental or Nervous Disorders’ shall not be defined more restrictively than a definition including neurosis, psychoneurosis, psychopathy, psychosis, or mental or emotional disease or disorder of any kind.

(8) ‘Nurses’ may be defined so that the description of nurse is restricted to a type of nurse, such as registered graduate professional nurse (R.N.), a licensed
practical nurse (L.P.N.), or a licensed vocational nurse (L.V.N.). If the words 'nurse', 'trained nurse' or 'registered nurse' are used without specific instruction, then the use of these terms requires the insurer to recognize the services of any individual who qualified under the terminology in accordance with the applicable statutes or administrative rules of the licensing or registry board of the State.

(9) 'Physician' may be defined by including words like 'duly qualified physician' or 'duly licensed physician'. The use of these terms requires an insurer to recognize and to accept, to the extent of its obligation under the contract, all providers of medical care and treatment when the services are within the scope of the provider's licensed authority and are provided pursuant to applicable laws.

(10) 'Sickness' shall not be defined to be more restrictive than the following: 'Sickness means sickness or disease of an insured person which first manifests itself after the effective date of insurance and while the insurance is in force.' The definition may be further modified to exclude sicknesses or diseases for which benefits are provided under any workers' compensation, occupational disease, employer's liability or similar law.

§ 58-262.10. Prohibited policy provisions.—(a) No insurance policy or subscriber contract may be advertised, solicited or issued for delivery in this State as a Medicare supplement policy if that policy or subscriber contract limits or excludes coverage by type of illness, accident, treatment or medical condition, except as follows:

(1) mental or emotional disorders, alcoholism and drug addiction;
(2) illness, treatment or medical condition arising out of:
   a. war or act of war (whether declared or undeclared); participation in a felony, riot or insurrections; service in the armed forces or units auxiliary thereto;
   b. suicide (sane or insane), attempted suicide or intentionally self-inflicted injury;
   c. aviation;
(3) cosmetic surgery, except that 'cosmetic surgery' shall not include reconstructive surgery when the service is incidental to or follows surgery resulting from trauma, infection or other diseases of the involved part;
(4) treatment provided in a governmental hospital; benefits provided under Medicare or other governmental program (except Medicaid), any State or federal workers' compensation, employer's liability or occupational disease law, or any motor vehicle no-fault law; services rendered by employees of hospitals, laboratories or other institutions; services performed by a member of the covered person's immediate family and services for which no charge is normally made in the absence of insurance;
(5) dental care or treatment;
(6) eye glasses, hearing aids and examination for the prescription or fitting thereof;
(7) rest cures, custodial care, transportation and routine physical examinations;
provision for more restrictive than those of Medicare. Medicare supplement policies may exclude coverage for any expense to the extent of any benefit available to the insured under Medicare.

(b) Medicare supplement policy coverages for the following shall not be more restrictive than those of Medicare:

(1) foot care in connection with corns, calluses, flat feet, fallen arches, weak feet, chronic foot strain, or symptomatic complaints of the feet;

(2) care in connection with the detection and correction by manual or mechanical means of structural imbalance, distortion, or subluxation in the human body for purposes of removing nerve interference and the effects thereof, where such interference is the result of or related to distortion, misalignment or subluxation of, or in the vertebral column.

(c) No Medicare supplement policy may use waivers to exclude, limit, or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions.

§ 58-262.11. Minimum benefit standards.—No insurance policy or subscriber contract may be advertised, solicited or issued for delivery in this State as a Medicare supplement policy which does not meet the following minimum standards. These are minimum standards and do not preclude the inclusion of other provisions or benefits which are not inconsistent with these standards.

(1) General Standards. The following standards apply to Medicare supplement policies and are in addition to all other requirements of this Article.

a. A Medicare supplement policy may not deny a claim for losses incurred more than six months from the effective date of coverage for a preexisting condition. The policy may not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.

b. A Medicare supplement policy may not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents.

c. A Medicare supplement policy shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible amount and copayment percentage factors. Premiums may be modified to correspond with such changes.

d. A 'noncancellable', 'guaranteed renewable', or 'noncancellable and guaranteed renewable' Medicare supplement policy shall not:

1. provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium, or

2. be cancelled or nonrenewed by the insurer solely on the grounds of deterioration of health; and

e. Termination of a Medicare supplement policy shall be without prejudice to any continous loss which commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be predicated upon the continous total disability of the
insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits.

(2) Minimum Benefit Standards.

a. Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the 61st day through the 90th day in any Medicare benefit period;

b. Coverage of Part A Medicare eligible expenses incurred as daily hospital charges during use of Medicare's lifetime hospital inpatient reserve days;

c. Upon exhaustion of all Medicare hospital inpatient coverage including the lifetime reserve days, coverage of ninety percent (90%) of all Medicare Part A eligible expenses for hospitalization not covered by Medicare subject to a lifetime maximum benefit of an additional 365 days;

d. Coverage of twenty percent (20%) of the amount of Medicare eligible expenses under Part B regardless of hospital confinement, subject to a maximum calendar year out-of-pocket deductible of two hundred dollars ($200.00) of such expenses and to a maximum benefit of at least five thousand dollars ($5,000) per calendar year.

"§ 58-262.12. Loss ratio standards.—Medicare supplement policies shall be expected to return to policyholders in the form of aggregate benefits under the policy, as estimated for the entire period for which rates are computed to provide coverage, on the basis of incurred claims experience and earned premiums for such period and in accordance with accepted actuarial principles and practices:

(1) At least seventy-five percent (75%) of the aggregate amount of premiums collected in the case of group policies, and

(2) At least sixty percent (60%) of the aggregate amount of premiums collected in the case of individual policies.

For purposes of this section, Medicare supplement policies issued as a result of solicitations of individuals through the mail or mass media advertising, including both print and broadcast advertising, shall be treated as individual policies.

"§ 58-262.13. Disclosure standards.—(a) In order to provide for full and fair disclosure in the sale of Medicare supplement policies, no Medicare supplement policy shall be delivered or issued for delivery in this State and no certificate shall be delivered pursuant to a group Medicare supplement policy delivered or issued for delivery in this State unless an outline of coverage is delivered to the applicant at the time application is made.

(b) General Rules.

(1) Medicare supplement policies shall include a renewal, continuation or nonrenewal provision. The language or specifications of that provision must be consistent with the type of contract to be issued. The provision shall be appropriately captioned, shall appear on the first page of the policy, and shall clearly state the duration, where limited, of renewability and the duration of the term of coverage for which the policy is issued and for which it may be renewed.

(2) Except for riders or endorsements by which the insured effectuates a request made in writing by the insured or exercises a specifically reserved right under a Medicare supplement policy, all riders or
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endorsements added to a Medicare supplement policy after date of issue or at reinstatement or renewal which reduce or eliminate benefits or coverage in the policy shall require signed acceptance by the insured. After the date of policy issue, any rider or endorsement which increases benefits or coverage with a concomitant increase in premium during the policy term must be agreed to in writing signed by the insured, except if the increased benefits of coverage are required by law. Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, such premium charge shall be set forth in the policy.

(3) A Medicare supplement policy which provides for the payment of benefits based on standards described as 'usual and customary', 'reasonable and customary' or words of similar import shall include a definition of these terms and an explanation of these terms in its accompanying outline of coverage.

(4) If a Medicare supplement policy contains any limitations with respect to preexisting conditions, the limitations must appear as a separate paragraph of the policy and be labeled as 'Pre-existing Condition Limitations'.

(5) Medicare supplement policies or certificates, other than those issued pursuant to direct response solicitation, shall have a notice prominently printed on the first page of the policy or attached thereto stating in substance that the policyholder or certificate holder shall have the right to return the policy or certificate within 10 days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the insured person is not satisfied for any reason, if the benefits have not been used. Medicare supplement policies or certificates issued pursuant to a direct response solicitation to persons eligible for Medicare by reason of age shall have a notice prominently printed on the first page or attached thereto stating in substance that the policyholder or certificate holder shall have the right to return the policy or certificate within 30 days of its delivery and to have the premium refunded if after examination the insured person is not satisfied for any reason.

(6) Insurers issuing accident and sickness policies, certificates or subscriber contracts which provide hospital or medical expense coverage on an expense incurred or indemnity basis, other than incidentally, to a person(s) eligible for Medicare by reason of age shall provide to all applicants a Medicare supplement 'buyer's guide' in the form prescribed by the commissioner. Delivery of the 'buyer's guide' shall be made whether or not the policies, certificates or subscriber contracts are advertised, solicited or issued as Medicare supplement policies as defined in this regulation. Except in the case of direct response insurers, delivery of the 'buyer's guide' shall be made to the applicant at the time of application and acknowledgment of receipt of the 'buyer's guide' shall be obtained by the insurer. Direct response insurers shall deliver the 'buyer's guide' to the applicant upon request but not later than at the time the policy is delivered.
(7) Except as otherwise provided in subsection d. of this section, the terms
'Medicare Supplement', 'Medigap' and words of similar import shall not
be used unless the policy is issued in compliance with G.S. 58-262.11.
(c) Outline of Coverage Requirements for Medicare Supplement Policies.
(1) Insurers issuing Medicare supplement policies for delivery in this State
shall provide an outline of coverage to all applicants at the time
application is made and, except for direct response policies, shall obtain
an acknowledgment of receipt of such outline from the applicant; and
(2) If a Medicare supplement policy or certificate is issued on a basis which
would require revision of the outline of coverage delivered at the time
of application, a substitute outline of coverage properly describing the
policy or certificate actually issued must accompany such policy or
certificate when it is delivered and contain the following statement, in
no less than 12 point type, immediately above the company name:
'NOTICE: Read this outline of coverage carefully. It is not identical to
the outline of coverage provided upon application and the coverage
originally applied for has not been issued.'
(3) The outline of coverage provided to applicants pursuant to subsections
(1) or (2) shall be in the form prescribed below:

(COMpany NAME)

OUTLINE OF MEDICARE
SUPPLEMENT COVERAGE

(1) Read Your Policy Carefully — This outline of coverage provides a
very brief description of the important features of your policy. This is
not the insurance contract and only the actual policy provisions will
control. The policy itself sets forth in detail the rights and obligations
of both you and your insurance company. It is, therefore, important
that you READ YOUR POLICY CAREFULLY.
(2) Medicare Supplement Coverage — Policies of this category are
designed to supplement Medicare by covering some hospital, medical,
and surgical services which are partially covered by Medicare.
Coverage is provided for hospital inpatient charges and some
physician charges, subject to any deductibles and copayment
provisions which may be in addition to those provided by Medicare,
and subject to other limitations which may be set forth in the policy.
The policy does not provide benefits for custodial care such as help in
walking, getting in and out of bed, eating, dressing, bathing and taking
medicine (delete if such coverage is provided).
(3) (a) (for agents:)
Neither (insert company's name) nor its agents are connected with
Medicare.
(b) (for direct responses:) (insert company's name) is not connected
with Medicare.
(4) (A brief summary of the major benefit gaps in Medicare Parts A & B
with a parallel description of supplemental benefits, including dollar
amounts, provided by the Medicare supplement coverage in the
following order:)

777
<table>
<thead>
<tr>
<th>SERVICE</th>
<th>BENEFIT</th>
<th>PAYS</th>
<th>THIS POLICY PAYS YOU</th>
</tr>
</thead>
<tbody>
<tr>
<td>HOSPITALIZATION - semiprivate room and board, general nursing and miscellaneous hospital services and supplies.</td>
<td>First 60 days</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>61st to 90th day</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Includes means, special care units, drugs, lab tests, diagnostic x-rays, medical supplies, operating and recovery room, anesthesia and rehabilitation services.</td>
<td>91st to 150th day</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Beyond 150 days</td>
<td></td>
<td></td>
</tr>
<tr>
<td>POSTHOSPITAL SKILLED NURSING CARE - In a facility approved by Medicare, you must have been in a hospital for at least three days and enter the facility within 14 days after hospital discharge</td>
<td>First 20 days</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Additional 80 days</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Beyond 100 days</td>
<td></td>
<td></td>
</tr>
<tr>
<td>MEDICAL EXPENSE Physician’s services in-patient and out-patient medical services and supplies at a hospital, physical and speech therapy and ambulance.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(5) (Statement that the policy does or does not cover the following):
(a) Private duty nursing;
(b) Skilled nursing home care costs (beyond what is covered by Medicare);
(c) Custodial nursing home care costs;
(d) Intermediate nursing home care costs;
(e) Home health care above number of visits covered by Medicare;
(f) Physician charges (above Medicare’s reasonable charge);
(g) Drugs (other than prescription drugs furnished during a hospital or skilled nursing facility stay);
(h) Care received outside of U.S.A.;
(i) Dental care or dentures, checkups, routine immunizations, cosmetic surgery, routine foot care, examinations for the cost of eyeglasses or hearing aids.
(6) (A description of any policy provisions which exclude, eliminate, resist, reduce, limit, delay, or in any other manner operate to qualify payments of the benefits described in (4) above, including conspicuous statements.)
(a) (That the chart summarizing Medicare benefits only briefly describes such benefits.)
(b) (That the Health Care Financing Administration or its Medicare publications should be consulted for further details and limitations.)
(7) (A description of policy provisions respecting renewability or continuation of coverage, including any reservation or rights to change premium.)
(8) (The amount of premium for this policy.)

(d) Notice regarding policies or subscriber contracts which are not Medicare supplement policies. Any accident and sickness insurance policy or subscriber contract, other than a Medicare supplement policy; disability income policy; basic, catastrophic, or major medical expense policy; single premium nonrenewable policy or policy identified in G.S. 58-262.8(3)b. issued for delivery in this State to persons eligible for Medicare by reason of age shall notify insureds under the policy or subscriber contract that the policy or subscriber contract is not a Medicare supplement policy. This notice shall either be printed or attached to the first page of the outline of coverage delivered to insureds under the policy or subscriber contract, or if no outline of coverage is delivered, to the first page of the policy, certificate or subscriber contract delivered to insureds. This notice shall be in no less than 12 point type and shall contain the following language: ‘THIS (POLICY, CERTIFICATE OR SUBSCRIBER CONTRACT) IS NOT A MEDICARE SUPPLEMENT (POLICY OR CERTIFICATE). If you are eligible for Medicare review the Medicare Supplement Buyers Guide available from the company.’

‘§ 58-262.14. Requirements for replacement.—(a) Application forms shall include a question designed to elicit information as to whether a Medicare supplement policy or certificate is intended to replace any other accident and sickness policy or certificate presently in force. A supplementary application or other form to be signed by the applicant containing this question may be used.
(b) Upon determining that a sale will involve replacement, an insurer, other than a direct response insurer, or its agent, shall furnish the applicant, prior to issuance or delivery of the Medicare supplement policy or certificate, a notice regarding replacement of accident and sickness coverage. One copy of this notice shall be provided to the applicant and an additional copy signed by the applicant shall be retained by the insurer. A direct response insurer shall deliver to the applicant at the time of the issuance of the policy the notice regarding replacement of accident and sickness coverage. In no event, however,
will a notice be required in the solicitation of 'accident only' and 'single premium nonrenewable' policies.

(c) The notice required by subsection (b) above for an insurer, other than a direct response insurer, shall be provided, in substantially the following form:

NOTICE TO APPLICANT REGARDING REPLACEMENT
OF ACCIDENT AND SICKNESS INSURANCE

According to (your application) (information you have furnished), you intend to lapse or otherwise terminate existing accident and sickness insurance and replace it with a policy to be issued by (Company Name) Insurance Company. Your new policy provides 10 days within which you may decide without cost whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

(1) Health conditions which you may presently have (preexisting conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay of a claim for benefits under the new policy, whereas a similar claim might have been payable under your present policy.

(2) You may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.

(3) If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical/health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, reread it carefully to be certain that all information has been properly recorded.

The above 'Notice to Applicant' was delivered to me on:

________________________  
(Date)

________________________  
(Applicant's Signature)

(d) The notice required by subsection (b) above for a direct response shall be as follows:

NOTICE TO APPLICANT REGARDING REPLACEMENT
OF ACCIDENT AND SICKNESS INSURANCE

According to (your application) (information you have furnished), you intend to lapse or otherwise terminate existing accident and sickness insurance and replace it with the policy delivered herewith issued by (Company Name) Insurance Company. Your new policy provides 30 days within which you may decide without cost whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.
(1) Health conditions which you may presently have (preexisting conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay of a claim for benefits under the new policy, whereas a similar claim might have been payable under your present policy.

(2) You may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.

(3) (To be included only if the application is attached to the policy.) If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, read the copy of the application attached to your new policy and be sure that all questions are answered fully and corrected. Omissions or misstatements in the application could cause an otherwise valid claim to be denied. Carefully check the application and write to (Company Name and Address) within 10 days if any information is not correct and complete, or if any past medical history has been left out of the application.

(Company Name)

§ 58-262.15. Administrative procedure.—Regulations promulgated pursuant to G.S. 58-262.13(b)(6) shall be subject to the provisions of Chapter 150A of the General Statutes.

Sec. 2. This act shall become effective July 1, 1982.

In the General Assembly read three times and ratified, this the 4th day of June, 1981.

S. B. 300

CHAPTER 504

AN ACT TO AMEND THE CONSTITUTION OF NORTH CAROLINA TO PROVIDE FOR FOUR-YEAR TERMS FOR MEMBERS OF THE GENERAL ASSEMBLY AND TO MAKE CONFORMING CHANGES TO OTHER SECTIONS OF THE CONSTITUTION CONCERNING ELECTIONS FOR OTHER OFFICERS AND FILLING VACANCIES.

The General Assembly of North Carolina enacts:

Section 1. Article II of the Constitution of North Carolina is amended:
(1) by rewriting Section 2 to read:

"Sec. 2. Number of Senators. The Senate shall be composed of 50 Senators, quadrennially chosen by ballot."

(2) by rewriting Section 4 to read:

"Sec. 4. Number of Representatives. The House of Representatives shall be composed of 120 Representatives, quadrennially chosen by ballot."

(3) by rewriting Section 8 to read:

"Sec. 8. Elections. The election for members of the General Assembly shall be held for the respective districts in 1982 and every four years thereafter, at the places and on the day prescribed by law."

Sec. 2. Article III of the Constitution of North Carolina is amended:
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(1) by rewriting the first sentence of Section 2(1) to read:

"The Governor and Lieutenant Governor shall be elected by the qualified voters of the State in 1980 and every four years thereafter, at the places and on the day prescribed by law."

(2) by rewriting the first sentence of Section 7(1) to read:

"A Secretary of State, an Auditor, a Treasurer, a Superintendent of Public Instruction, an Attorney General, a Commissioner of Agriculture, a Commissioner of Labor, and a Commissioner of Insurance shall be elected by the qualified voters of the State in 1980 and every four years thereafter, at the same time and places as the Governor is elected."

(3) by rewriting Section 7(3) to read:

"(3) Vacancies. If the office of any of these officers is vacated by death, resignation, or otherwise, it shall be the duty of the Governor to appoint another to serve until his successor is elected and qualified. Every such vacancy shall be filled by election at the first statewide general election that occurs more than 30 days after the vacancy has taken place, and the person chosen shall hold the office for the remainder of the unexpired term fixed in this section. When a vacancy occurs in the office of any of the officers named in this section and the term expires on the first day of January succeeding the next statewide general election, the Governor shall appoint to fill the vacancy for the unexpired term of the office."

Sec. 3. Article IV of the Constitution of North Carolina is amended:

(1) by rewriting the first sentence of Section 9(3) to read:

"A clerk of the superior court for each county shall be elected for a term of four years by the qualified voters thereof, at the places and on the day prescribed by law."

(2) by rewriting the first sentence of Section 18(1) to read:

"The General Assembly shall, from time to time, divide the State into a convenient number of prosecutorial districts, for each of which a district attorney shall be chosen for a term of four years by the qualified voters thereof, at the places and on the day prescribed by law."

(3) by rewriting Section 19 to read:

"Sec. 19. Vacancies. Unless otherwise provided in this Article, all vacancies occurring in the offices provided for by this Article shall be filled by appointment of the Governor, and the appointees shall hold their places until the next statewide general election that is held more than 30 days after the vacancy occurs, when elections shall be held to fill the offices. When the unexpired term of any of the offices named in this Article of the Constitution in which a vacancy has occurred, and in which it is herein provided that the Governor shall fill the vacancy, expires on the first day of January succeeding the next statewide general election, the Governor shall appoint to fill that vacancy for the unexpired term of the office. If any person elected or appointed to any of these offices shall fail to qualify, the office shall be appointed to, held, and filled as provided in the case of vacancies occurring therein. All incumbents of these offices shall hold until their successors are qualified."

Sec. 4. The amendments set forth in Sections 1 through 3 shall be submitted to the qualified voters of the State at the next statewide primary election or statewide general election or at the next statewide election, whichever is earlier, which election shall be conducted under the laws then governing elections in the State. At that election, each qualified voter who
desires to vote shall be provided a ballot on which shall be printed the following:

“☐ FOR constitutional amendment making the term of members of the General Assembly four years, beginning with members elected in 1982, and conforming amendments concerning the election of other officers and the filling of vacancies.

“☐ AGAINST constitutional amendment making the term of members of the General Assembly four years, beginning with members elected in 1982, and conforming amendments concerning the election of other officers and the filling of vacancies.”

Those qualified voters favoring the amendments shall vote by marking an “X” or a check mark in the square beside the statement beginning “FOR”, and those qualified voters opposed to the amendments shall vote by marking an “X” or a check mark in the square beside the statement beginning “AGAINST”.

Notwithstanding the foregoing provisions of this section, voting machines may be used in accordance with rules and regulations prescribed by the State Board of Elections.

Sec. 5. If a majority of votes cast thereon are in favor of the constitutional amendments, the State Board of Elections shall certify the amendments to the Secretary of State who shall enroll the amendments so certified among the permanent records of his office. The constitutional amendments shall become effective upon certification and shall apply to members of the General Assembly elected in the 1982 general election so that they shall serve four-year terms.

Sec. 6. G.S. 7A-140 is amended by rewriting the second sentence to read: “Each district judge shall be elected by the qualified voters of the district court district in which he is to serve, at the time specified in Chapter 163.”

Sec. 7. G.S. 147-4 is amended by rewriting the first sentence to read: “The executive department shall consist of a Governor, a Lieutenant Governor, a Secretary of State, an Auditor, a Treasurer, a Superintendent of Public Instruction, an Attorney General, a Commissioner of Agriculture, a Commissioner of Insurance, and a Commissioner of Labor, who shall be elected for a term of four years, by the qualified voters of the State, at the time and place and in the manner prescribed by the Constitution and by Chapter 163.”

Sec. 8. G.S. 152-1 is amended by rewriting the first sentence to read: “In each county a coroner shall be elected by the qualified voters thereof in the manner and at the time prescribed by Chapter 163, and shall hold office for a term of four years, or until his successor is elected and qualified.”

Sec. 9. G.S. 161-1 is rewritten to read:

“§ 161-1. Election and term of office.—In each county there shall be elected biennially by the qualified voters thereof, as prescribed by Chapter 163, a register of deeds.”

Sec. 10. G.S. 162-1 is rewritten to read:

“§ 162-1. Election and term of office.—In each county a sheriff shall be elected by the qualified voters thereof, as prescribed by Chapter 163, and shall hold his office for four years.”

Sec. 11. G.S. 163-1 is amended in the table by rewriting the “DATE OF ELECTION” entries for State Senator and Member of the State House of Representatives to read: “Tuesday next after the first Monday in November 1982 and every four years thereafter”.

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Sec. 12. G.S. 163-1 is further amended in the table by rewriting the "TERM OF OFFICE" entries for State Senator and Member of the State House of Representatives to read: "Four years".

Sec. 13. G.S. 163-1 is further amended in the table by rewriting the "DATE OF ELECTION" entries for justices and judges of the Appellate Division, judges of the superior courts, judges of the district courts, district attorney, county commissioners, clerk of superior court, register of deeds, sheriff, and coroner, to read: "At the next regular statewide election, whether for Governor and other statewide offices or for members of the General Assembly, immediately preceding the termination of each regular term".

Sec. 14. G.S. 163-8 is amended by rewriting the last sentence of the first paragraph to read: "Each such vacancy shall be filled by election at the first statewide general election that occurs more than 30 days after the vacancy has taken place, and the person chosen shall hold the office for the remainder of the unexpired four-year term: Provided, that when a vacancy occurs in any of the offices named in this section and the term expires on the first day of January succeeding the next statewide general election, the Governor shall appoint to fill the vacancy for the unexpired term of the office."

Sec. 15. G.S. 163-9 is amended by rewriting the second sentence of the first paragraph to read: "An appointee shall hold his place until the next statewide general election that is held more than 30 days after the vacancy occurs, at which time an election shall be held to fill the unexpired term of the office: Provided, that when the unexpired term of the office in which the vacancy has occurred expires on the first day of January succeeding the next statewide general election, the Governor shall appoint to fill that vacancy for the unexpired term of the office."

Sec. 16. G.S. 163-10 is amended by rewriting the second sentence to read: "An appointee shall hold his place until the next statewide general election that is held more than 30 days after the vacancy occurs, at which time an election shall be held to fill the unexpired term of the office: Provided, that when the unexpired term of the office in which the vacancy has occurred expires on the first day of January succeeding the next statewide general election, the Governor shall appoint to fill the vacancy for the unexpired term of the office."

Sec. 17. G.S. 163-11 is amended by adding the following new paragraph to the end of that section:

"The person appointed by the Governor shall hold that office until the next statewide general election that is held more than 30 days after the vacancy occurs, at which time an election shall be held to fill the unexpired term of the office. If, however, the next statewide general election is a regular election for members of the General Assembly, the Governor shall appoint to fill the vacancy for the unexpired term of the office."

Sec. 18. G.S. 163-12 is amended by rewriting the second sentence to read: "The Governor shall issue his writ for the election of a Senator to be held at the time of the first statewide general election that is held more than 30 days after the vacancy occurs."

Sec. 19. Each statute and each local act which states that a vacancy in an elected office shall be filled until the next election for members of the General Assembly, or similarly relies on the date of General Assembly elections as determining when an event is to take place or the duration of an
appointment, shall be considered instead to use the date of the next statewide general election as the determining date for whatever purpose the date of the General Assembly election is now used.

Sec. 20. Sections 6 through 19 of this act shall take effect only upon approval of the voters of the constitutional amendments set forth in Sections 1 through 3. If the constitutional amendments proposed in those sections are approved by the voters, sections 6 through 19 of this act shall become effective at the same time as the constitutional amendments.

Sec. 21. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of June, 1981.

S. B. 534

CHAPTER 505

AN ACT TO ALLOW THE SHERIFF AND DEPUTY SHERIFFS OF CHEROKEE COUNTY TO PURCHASE AUTOMOBILES FROM STATE SURPLUS.

The General Assembly of North Carolina enacts:

Section 1. The duly elected sheriff of a county and his duly appointed, full-time salaried deputies who have been employed not less than 90 days, shall be permitted, during their term of office, to purchase automobiles which have been declared surplus property by the State of North Carolina and offered for sale by the Division of Purchase and Contract. Such purchase may be made through negotiations with the Division of Purchase and Contract, in the same manner as is done by the county itself. Such purchase shall be made only with permission of the board of county commissioners of that county, and automobiles so purchased shall be used in the performance of the official duties of the said sheriff and deputies.

Sec. 2. This act applies to Cherokee County only.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of June, 1981.

H. B. 257

CHAPTER 506

AN ACT TO AMEND CHAPTER 471 OF THE SESSION LAWS OF 1977.

The General Assembly of North Carolina enacts:

Section 1. Chapter 471 of the Session Laws of 1977 is amended by rewriting Section 4 thereof to read as follows:

"Sec. 4. The provisions of this act shall not apply to a person setting traps on his or her own land nor to a person trapping beaver or muskrat during the open season therefor on the lands of a landowner to whom such animals have become nuisances and with whom he has a written contract to do such trapping."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of June, 1981.
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H. B. 483  CHAPTER 507

AN ACT TO AUTHORIZE A HUSBAND AND WIFE TO OWN A MOBILE HOME AS TENANTS BY THE ENTIRETY AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 41 of the General Statutes is hereby amended by adding a new section thereto to read as follows:

"§ 41-2.5. Tenancy by the entirety in mobile homes.—(a) When a husband and wife become co-owners of a mobile home, in the absence of anything to the contrary appearing in the instrument of title, they become tenants by the entirety with all the incidents of an estate by the entirety in real property, including the right of survivorship in the case of death of either.

(b) For the purpose of this section it shall be immaterial whether the property at any particular time shall be classified for any purpose as either real or personal. The provisions of subsection (a) shall not limit or prohibit any other type of ownership otherwise authorized by law.

(c) For purposes of this section ‘mobile home’ means a portable manufactured housing unit designed for transportation on its own chassis and placement on a temporary or semipermanent foundation having a measurement of over 32 feet in length and over eight feet in width. As used in this Article, ‘mobile home’ also means a double-wide mobile home which is two or more portable manufactured housing units designed for transportation on their own chassis, which connect on site for placement on a temporary or semipermanent foundation having a measurement of over 32 feet in length and over eight feet in width.

(d) Nothing herein contained shall be construed to repeal or modify any of the provisions of Article 1 of Chapter 105 relating to the administration of the inheritance tax laws or any other provision of the law relating to inheritance taxes."

Sec. 2. This act shall become effective September 1, 1981.

In the General Assembly read three times and ratified, this the 5th day of June, 1981.

H. B. 573  CHAPTER 508

AN ACT TO CLARIFY THE DEFINITION OF A NONRESIDENT FOR PURPOSES OF THE RECIPROCAL PROVISION AS TO ARREST OF NONRESIDENTS FOR MOTOR VEHICLE VIOLATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-4.18(4) is amended by deleting the words “is a resident of or”.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of June, 1981.

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AN ACT AUTHORIZING THE APPOINTMENT OF A SPECIAL BOARD OF 
EQUALIZATION AND REVIEW FOR MECKLENBURG COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The Board of County Commissioners of Mecklenburg County 
is hereby authorized and empowered to appoint each year a special board of 
equalization and review for Mecklenburg County to be composed of not less 
than five nor more than nine members. The board of county 
commissioners shall designate one of the persons so appointed as Chairman of 
the Board of Equalization and Review. To be eligible for appointment to such 
board, a person must have resided in Mecklenburg County for a period of at 
least one year immediately preceding his appointment, and must have had such 
experience in the appraisal and valuation of real and personal property as is 
satisfactory to the board of county commissioners. Members of the Board of 
Equalization and Review shall serve for the duration of the calendar year for 
which they are appointed, except that during revaluation years the board may 
continue to serve for the purpose of hearing appeals or performing duties arising 
from the revaluation of property in the county. Any vacancy created by the 
death, resignation or incapacity of a member of the Board of Equalization and 
Review shall be filled by the board of county commissioners. Any successor so 
appointed shall serve for the duration of the board to which he or she is 
appointed.

Sec. 2. Should the Board of County Commissioners of Mecklenburg 
County not appoint such a Board of Equalization and Review, then the board of 
county commissioners shall comprise the Board of Equalization and Review 
and shall have the powers and duties as are now provided.

Sec. 3. Compensation. The members of the Board of Equalization and 
Review shall receive for their services such compensation as may be fixed by 
the board of county commissioners.

Sec. 4. Oath. Before entering upon their duties, each member of the 
Board of Equalization and Review shall take and subscribe to the following 
oath and file the same with the clerk of the board of county commissioners:

"I, ____________, do solemnly swear (or affirm) that I will support and 
maintain the Constitution and the laws of the United States, and the 
Constitution and the laws of North Carolina not inconsistent therewith, and 
that I will faithfully discharge the duties of my office as a member of the Board 
of Equalization and Review of Mecklenburg County, North Carolina, and that I 
will not allow my actions as a member of the Board of Equalization and Review 
to be influenced by personal or political friendships or obligations, so help me 
God."

Sec. 5. Clerk and Minutes. The tax supervisor or a deputy designated by 
him shall act as clerk to the Board of Equalization and Review, shall be present 
at all meetings, shall maintain accurate minutes of the actions of the board, and 
shall give to the board such information as he or she may have or can obtain 
with respect to the listing and valuation of taxable property in the county.

Sec. 6. Time of Meeting. Each year the Board of Equalization and 
Review shall hold its first meeting not earlier than the first Monday in April 
and not later than the first Monday in May. The board shall complete its duties 
no later than July 1 except to hear and determine requests which are made
under the provisions of subdivision (g)(2) of G.S. 105-322, or any amendments thereto, when such requests are made within the time prescribed by law. From the time of its first meeting until its adjournment, the board shall meet at such times as it deems reasonably necessary to perform its statutory duties and to receive requests and hear the appeals of taxpayers under the provisions of subdivision (g)(2) of G.S. 105-322.

Sec. 7. Notice of Meetings and Adjournments. A notice of the date, hours, place, and purpose of the first meeting of the Board of Equalization and Review shall be published at least three times in some newspaper having general circulation in the county, the first publication to be at least 10 days prior to the first meeting. The notice shall also state that the board will meet at such dates and places as necessary to fulfill its duties, and that it will adjourn no later than July 1 except to perform its duties as hereafter provided.

Sec. 8. Powers and Duties. The Board of Equalization and Review shall possess the powers and duties enumerated in G.S. 105-322(g)(1)(2) and (3), as amended from time to time.

Sec. 9. Power to Compromise. The Board of Equalization and Review shall have the power to compromise, settle, or adjust the county’s claim for taxes arising under G.S. 105-312, and amendments thereto; and the board shall have like authority, by appropriate resolution of any municipality within the county, to compromise, settle, or adjust the appropriate municipality’s claim for taxes arising under G.S. 105-312, and amendments thereto.

Sec. 10. Powers Following Adjournment. Following the formal adjournment of the board each year, the board shall continue to function for the purpose of exercising the authority granted to the board of county commissioners under G.S. 105-325, and amendments thereto.

Sec. 11. Quorum. A majority of the board members shall constitute a quorum for the purpose of transacting any business, except as hereafter provided.

Sec. 12. Revaluation Years-panels. In any revaluation year, the Chairman of the Board of Equalization and Review shall have the authority to divide the board into a maximum of three separate panels with a minimum of three board members for each panel. The board members for the panels may be interchanged during the year. In the event the chairman exercises the right to divide the board into panels, a majority of the members of a particular panel shall constitute a quorum, and a decision by the panel will constitute a decision of the board.

Sec. 13. The provisions of this act shall apply only to Mecklenburg County, and it is the intent to amend G.S. 105-322 only with respect to Mecklenburg County.

Sec. 14. All laws and clauses of law in conflict with this act are hereby repealed, including Chapter 916 of the 1961 Session Laws, Chapter 281, Session Laws of 1963, and Chapter 412, Session Laws of 1971.

Sec. 15. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of June, 1981.
H. B. 657  CHAPTER 510
AN ACT RELATING TO THE DISPOSAL OF COUNTY PROPERTY BY PRIVATE SALE IN MECKLENBURG COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-267 is amended by adding at the end of the seventh line the words “Provided, however, with any item or group of items worth one thousand dollars ($1,000) or less, the same may be disposed of by private sale by order of the county manager to the appropriate county official, and the order of the county manager need not be published.”

Sec. 2. This act shall apply to Mecklenburg County only.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of June, 1981.

H. B. 702  CHAPTER 511
AN ACT TO AMEND THE RESTRICTIONS ON FORCE ACCOUNT WORK AS APPLIES TO THE CITY OF MONROE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-135, as it appears in the 1981 Interim Supplement, is amended by inserting immediately after the word “concerned” in line 6 the words, “or when the work is performed by appointed agents of the agency using labor crews and equipment leased on a per diem basis pursuant to informal bids under G.S. 143-131”.

Sec. 2. This act applies only to the City of Monroe. This act expires two years after ratification.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of June, 1981.

H. B. 759  CHAPTER 512
AN ACT DESIGNATING CERTAIN RECORDS AND INFORMATION OF THE ADMINISTRATOR OF CREDIT UNIONS AS CONFIDENTIAL RECORDS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 54 of the General Statutes is amended by inserting between Articles 14L and 15 the following:

"ARTICLE 14M.

§54-109.101. Confidential information.—(a) The following records of information of the Credit Union Division, the Administrator or the agent(s) of either shall be confidential and shall not be disclosed:

(1) information obtained or compiled in preparation of, during, or as a result of an examination, audit or investigation of any credit union;

(2) information reflecting the specific collateral given by a named borrower, or specific withdrawable accounts held by a named member;

(3) information obtained, prepared or compiled during or as a result of an examination, audit or investigation of any credit union by an agency of

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the United States, if the records would be confidential under federal law or regulation;
(4) information and reports submitted by credit unions to federal regulatory agencies, if the records or information would be confidential under federal law or regulation;
(5) information and records regarding complaints from the members received by the division which concern credit unions when the complaint would or could result in an investigation, except to the management of those credit unions;
(6) any other letters, reports, memoranda, recordings, charts or other documents or records which would disclose any information of which disclosure is prohibited in this subsection.

(b) A court of competent jurisdiction may order the disclosure of specific information.
(c) The information contained in an application for a new credit union shall be deemed to be public information.
(d) Nothing in this Article shall prevent the exchange of information relating to credit unions and the business thereof with the representatives of the agencies of this State, other states, or of the United States, or with reserve or insuring agencies for credit unions. Nothing in this Article shall prevent the Administrator, in his discretion, from disclosing pertinent information relating to a credit union and the business thereof with directors, officers, or members of the credit union. The private business and affairs of an individual or company shall not be disclosed by any person employed by the Credit Union Division, or by any person with whom information is exchanged under the authority of this subsection.
(e) Any official or employee violating this section shall be liable to any person injured by disclosure of such confidential information for all damages sustained thereby. Penalties provided shall not be exclusive of other penalties.
(f) The willful or knowing violation of the provisions of this Article by any employee of the Credit Union Division shall be a misdemeanor."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of June, 1981.

H. B. 783  CHAPTER 513

AN ACT TO AMEND ARTICLE IV OF THE STATE CONSTITUTION TO PERMIT RECALL OF RETIRED SUPREME COURT JUSTICES OR COURT OF APPEALS JUDGES TO SERVE TEMPORARILY ON EITHER APPELLATE COURT.

The General Assembly of North Carolina enacts:

Section 1. Article IV, Section 8 of the Constitution of North Carolina is amended by rewriting the first sentence thereof to read as follows: "The General Assembly shall provide by general law for the retirement of Justices and Judges of the General Court of Justice, and may provide for the temporary recall of any retired Justice or Judge to serve on the court or courts of the division from which he was retired."

Sec. 2. The amendment set out in Section 1 of this act shall be submitted to the qualified voters of the State at the next statewide primary or
statewide general election or the next statewide election, whichever is earlier, which election shall be conducted under the laws then governing general elections in this State.

Sec. 3. At the election each qualified voter presenting himself to vote shall be provided a ballot on which shall be printed the following:

“☐ FOR constitutional amendment authorizing General Assembly to provide for temporary recall of retired Supreme Court Justices or Court of Appeals Judges to serve temporarily on either appellate court.

☐ AGAINST constitutional amendment authorizing General Assembly to provide for temporary recall of retired Supreme Court Justices or Court of Appeals Judges to serve temporarily on either appellate court.”

Sec. 4. Notwithstanding the foregoing provisions of this section, voting machines may be used in accordance with rules and regulations prescribed by the State Board of Elections.

Sec. 5. If a majority of the votes cast are in favor of the amendment set out in Section 1 of this act, the amendment shall be certified by the State Board of Elections to the Secretary of State, who shall enroll the amendment among the permanent records of his office, and the amendment shall become effective January 1, 1983.

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of June, 1981.

H. B. 796 CHAPTER 514
AN ACT TO AMEND G.S. 143-215.6 TO PROVIDE FOR CIVIL SANCTIONS FOR VIOLATIONS OF THE WATER USE INFORMATION ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-215.6 is hereby amended by inserting the words “or G.S. 143-355(k) relating to water use information” after the word “Article” in paragraphs d and f of Subdivision (a)(1) thereof, and by adding at the end of subsection (c) thereof the sentence: “For purposes of this subsection references to ‘this Article’ include G.S. 143-355(k) relating to water use information.”

Sec. 2. G.S. 143-355(k) is hereby amended by rewriting the proviso at lines 12-13 to read as follows: “Provided, however, this subsection does not apply to withdrawals or uses by individuals or families for household, livestock, or gardens.”

Sec. 3. G.S. 143-355(k) is further amended by adding at the end thereof the following: “Within the meaning of this subsection the term ‘person’ means any and all persons, including individuals, firms, partnerships, associations, public or private institutions, municipalities or political subdivisions, governmental agencies, and private or public corporations organized or existing under the laws of this State or any other state or country.”

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of June, 1981.

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H. B. 911

CHAPTER 515

AN ACT TO REQUIRE THAT COUNTY BOARDS OF ELECTION FILE A COPY OF THEIR PRECINCT MAP WITH THE STATE BOARD OF ELECTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-128(b) is amended by adding the following language before the final period ", and shall file a copy with the State Board of Elections".

Sec. 2. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 5th day of June, 1981.

H. B. 965

CHAPTER 516

AN ACT REQUIRING ALL ABLE-BODIED PRISON INMATES TO WORK.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14826(a) is amended by deleting the first sentence and substituting the following:

"It is declared to be the public policy of the State of North Carolina that all able-bodied prison inmates shall be required to perform diligently all work assignments provided for them. The failure of any inmate to perform such a work assignment may result in disciplinary action. Work assignments and employment shall be for the public benefit to reduce the cost of maintaining the inmate population while enabling inmates to acquire or retain skills and work habits needed to secure honest employment after their release."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of June, 1981.

H. B. 989

CHAPTER 517

AN ACT TO CREATE A PRESUMPTION THAT ALL NOTICES REQUIRED BY LAW IN CERTAIN SALES UNDER EXECUTION IN RICHMOND COUNTY WERE DULY SERVED.

The General Assembly of North Carolina enacts:

Section 1. Article 2 of Chapter 8 is amended by adding a new section, G.S. 8-22.1, to read:

§ 8-22.1. Local: tax deeds in Richmond.—Proof of execution and delivery of a deed recorded before 1971 to a grantee by the sheriff of Richmond County pursuant to sale under execution in a tax foreclosure proceeding brought by Richmond County under G.S. 105-375 establishes a presumption that all notices required by G.S. 105-375 and Article 29B of Chapter 1 of the General Statutes were duly given and served, as required by law, to all persons entitled to receive the notices.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of June, 1981.
H. B. 1036  CHAPTER 518
AN ACT TO ALLOW COUNTY ROAD NAMING NOTICES TO BE PUBLISHED IN AT LEAST ONE NEWSPAPER RATHER THAN ALL THE NEWSPAPERS IN THE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-240 as amended by Chapter 112, Session Laws of 1981 is further amended by deleting the words "in each newspaper", and inserting in lieu thereof the words, "in at least one newspaper".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of June, 1981.

H. B. 179  CHAPTER 519
AN ACT TO MAKE TECHNICAL AMENDMENTS TO CHAPTERS 14 AND 122 OF THE GENERAL STATUTES TO CLARIFY PROCEDURES FOR THE HANDLING OF THE PUBLIC INEBRIATE AND CHRONIC ALCOHOLICS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-445 is amended by adding new subsections to read:

"(c) Whenever any person charged with committing a misdemeanor under G.S. 14-444 enters a plea to the charge, the court may, without entering a judgment, defer further proceedings for up to 15 days to determine whether the person is suffering from alcoholism.

(d) If he believes it will be of value in making his determination, the district court judge may direct an alcoholism court counselor, if available, to conduct a prehearing review of the alleged alcoholic's drinking history in order to gather additional information as to whether the defendant is suffering from alcoholism."

Sec. 2. G.S. 14-447(b) is amended by adding a new sentence to read:

"This authority to arrest and then issue a citation is granted as an exception to the requirements of G.S. 15A-501(2)."

Sec. 3. G.S. 122-58.22(a) is amended by adding a new sentence to the subsection to read:

"The judicial determination that the respondent is an alcoholic in need of care shall be based on clear, cogent and convincing evidence."

Sec. 4. G.S. 122-58.22 is amended by adding a new subsection to read:

"(g) The director of a public or private alcoholism treatment facility shall discharge a committed respondent unconditionally at any time he determines that the respondent is no longer in need of care. Notice of discharge shall be furnished to the clerk of superior court of the county of commitment and the county in which the facility is located."

Sec. 5. G.S. 122-65.11(d) is amended by rewriting this subsection to read:

"(d) The procedures for commitment of an alcoholic in need of care under the provisions of this Article are as follows:

(1) Any person who has knowledge that a person assisted to a shelter or treatment facility under subdivisions (a)(3) or (a)(4) of this section is an alcoholic in need of care as defined by G.S. 122-58.22 or G.S. 122-58.23 may appear before a clerk or deputy clerk of superior court or a
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magistrate of district court and execute an affidavit to this effect and petition the clerk or magistrate for issuance of an order that the person be detained until he can appear before a district court judge for a hearing to determine if he is an alcoholic in need of care. The affidavit shall include the facts on which the affiant’s opinion is based. The respondent must be found in or be a resident of the county in which the clerk or magistrate holds office.

(2) If the clerk or magistrate finds reasonable grounds to believe the facts as alleged in the affidavit are true and that the respondent is an alcoholic in need of care, he may issue an order to a law enforcement officer that the respondent remain in the shelter or treatment facility until he can appear before a district court judge to determine if he is an alcoholic in need of care.

(3) The clerk or magistrate may direct that the person be kept at the facility to which he was taken under subdivision (a)(3) or (a)(4) of this section or at any other facility approved for this purpose by the Department of Human Resources. If the jail was used as a shelter-care facility under (a)(3) of this section and G.S. 122-65.13, the respondent must be ordered to be taken to a facility approved by the Department of Human Resources for this purpose.

(4) The respondent may be detained no more than 10 days for this purpose, and if a hearing is not held within 10 days after the respondent is taken into custody, the respondent shall be released.

(5) Pending the district court hearing the qualified physician attending the respondent may administer to the respondent reasonable and appropriate medication and treatment that is consistent with accepted medical standards.

(6) If the district court judge is unable to make a determination whether the person is an alcoholic in need of care at the time the alleged alcoholic is initially brought before him, he may order the person to return to court at any time within the next 15 days to complete the determination.

(7) If he believes it will be of value in making his determination, the district court judge may direct an alcoholism court counselor, if available, to conduct a prehearing review of the alleged alcoholic’s drinking history and make recommendations on the proper disposition for the person if he is found to be an alcoholic in need of care."

Sec. 6. This act shall become effective on July 1, 1981.
In the General Assembly read three times and ratified, this the 5th day of June, 1981.

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H. B. 875 CHAPTER 520
AN ACT TO REMOVE MOST RESTRICTIONS ON POLITICAL ACTIVITIES OF MEMBERS OF STATE COMMISSIONS, BOARDS, COUNCILS, AND COMMITTEES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-13(c) is rewritten to read:
"(c) No member of a State commission may use his position to influence any election or the political activity of any person, and any such member who violates this subsection may be removed from such office by the Governor, if such member was appointed by the Governor, or by the appointing authority, if such member was not appointed by the Governor. Nothing herein shall prohibit such member from publishing the fact of his membership in his own campaign for public office."

Sec. 2. G.S. 143B-16 is amended by adding at the end of the first paragraph a second paragraph which reads:
"No member of a board, council, or committee may use his position to influence any election or the political activity of any person, and any such member who violates this subsection may be removed from such office by the Governor, if such member was appointed by the Governor, or by the appointing authority, if such member was not appointed by the Governor. Nothing herein shall prohibit such member from publishing the fact of his membership in his own campaign for public office."

Sec. 3. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 5th day of June, 1981.

S. B. 379 CHAPTER 521
AN ACT TO LIMIT WORKERS' COMPENSATION INSURANCE RATE FILINGS WITH THE COMMISSIONER OF INSURANCE TO ONE FILING PER YEAR.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-124.20 is amended by adding a new subsection to read:
"(f) On or before September 1 of each calendar year the bureau shall submit to the commissioner the experience, data, statistics, and information referred to in subsection (c) of this section and a rate review based on such data for workers' compensation insurance and employers' liability insurance written in connection therewith. Any rate increase for such insurance that is implemented pursuant to this Article shall become effective solely to such insurance as is written having an inception date on or after the effective date of the rate increase."

Sec. 2. G.S. 97-29 is amended on lines 29 and 36 by substituting the word, "July" for the word, "August"; on line 34 by substituting the word, "January" for the word, "November"; and on line 36 by substituting the word, "January" for the word, "October".

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Sec. 3. Article 1 of General Statutes Chapter 97 is amended by adding a new section to read:

“§ 97-31.1. Effective date of legislative changes in benefits.—Every act of the General Assembly that changes the benefits enumerated in this Chapter shall have a ratification date of no later than June 1 and shall have an effective date of no earlier than January 1 of the year after which it is ratified.”

Sec. 4. G.S. 97-90 is amended by adding a new subsection to read:

“(e) The fees provided for in subsection (a) of this section shall be approved by the commission no later than June 1 of the year in which the commission exercises its authority under subsection (a) of this section, but shall not become effective until July 1 following such approval.”

Sec. 5. G.S. 58-124.19 is amended by adding a new subsection to read:

“(5) In the case of workers’ compensation insurance and employers’ liability insurance written in connection therewith, due consideration shall be given to the past and prospective effects of changes in compensation benefits and in legal and medical fees that are provided for in General Statutes Chapter 97.”

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of June, 1981.

S. B. 436  CHAPTER 522

AN ACT TO REQUIRE THE SHERIFF TO FURNISH A LIST OF JAILED PRISONERS TO CLERKS OF COURT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-229 is rewritten to read as follows:

“§ 153A-229. Jailers’ report of jailed defendants.—The person having administrative control of a local confinement facility must furnish to the clerk of superior court a report listing such information reasonably at his disposal as is necessary to enable said clerk of superior court to comply with the provisions of G.S. 7A-109.1.”

Sec. 2. This act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 5th day of June, 1981.

S. B. 487  CHAPTER 523

AN ACT TO ESTABLISH A PROGRAM IN THE DEPARTMENT OF CULTURAL RESOURCES FOR THE REGISTRATION OF HISTORICAL MILITARY REENACTMENT GROUPS.

The General Assembly of North Carolina enacts:

Section 1. The Department of Cultural Resources shall establish a program for the voluntary registration of historical military reenactment groups. The department shall require, as part of the registration procedure, the filing of a copy of the various bylaws governing the groups. The department shall designate the names to be used by the groups to ensure a lack of duplication or confusion between the groups and shall, in the case of duplicate name requests, decide the use of a particular name based on the longest period of existence as shown by the dates of the bylaws or other evidence of creation. The department shall create a seal or other logo which shall indicate
registration with the department and shall be authorized for use only by groups properly registered pursuant to this act.

Sec. 2. The Department of Cultural Resources, Division of Archives and History shall sign contracts for the performance of military historical dramas on State-owned property only with historical military reenactment groups properly registered pursuant to this act.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1981.

S. B. 535  CHAPTER 524
AN ACT TO PROHIBIT THE HUNTING OF DEER WITH RIFLES, AND THE TAKING OF ANY WILDLIFE FROM PUBLIC ROADS, IN MECKLENBURG COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It shall be unlawful for any person to use any rifle in the hunting or taking or attempted taking of deer, except that muzzle-loading rifles may be used during the special muzzle-loading firearms season as established by regulations of the Wildlife Resources Commission.

Sec. 2. It shall be unlawful for any person to use any firearm to hunt or take or attempt to take any wildlife from any public road or highway right-of-way.

Sec. 3. Violation of this act shall be a misdemeanor punishable by a fine of not more than fifty dollars ($50.00). All law enforcement officers including wildlife protectors are hereby authorized to make arrests for violation of this act.

Sec. 4. This act shall apply only to Mecklenburg County.

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1981.

H. B. 680  CHAPTER 525
AN ACT TO CHANGE THE PROCEDURE FOR APPOINTING HOSPITAL AUTHORITIES IN COUNTIES WITH A POPULATION LESS THAN 75,000.

Whereas, smaller counties need more flexibility in choosing hospital authority board members, because of the smaller pool of available persons; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 131-94 is amended by adding a new sentence at the end to read:

"This section applies to all cities regardless of population, and to all hospital authorities established jointly by any city and any county, but applies only to counties with a population of 75,000 or greater according to the most recent decennial federal census."
Sec. 2. Article 12 of Chapter 131 of the General Statutes is amended by adding a new section to read:

"§ 131-94.1. Appointment of commissioners in counties with a population of less than 75,000.—(a) An authority shall consist of not less than six and not more than 30 commissioners appointed by the board of county commissioners, which shall designate the first chairman.

(b) One third of the commissioners who are first appointed shall be designated by the board of county commissioners, to serve for the terms of one year, one third to serve for terms of two years, and one third to serve for terms of three years respectively from the date of their appointment. Thereafter, the term of office shall be three years. Vacancies shall be filled for the unexpired term. In selecting the persons to fill any vacancy created by the expiration of a term of office or otherwise the board of county commissioners may consider nominations submitted by the remaining members of the commissioners or the authority but is not bound by such nominations and may choose any qualified person.

(c) The members of the authority, upon a finding that it is in the public interest, may adopt a resolution increasing the membership of the authority by a fixed number and submit the certified resolution to the board of county commissioners for appointment of the new commissioners. The board of county commissioners may consider nominations submitted by the remaining members of the hospital authority when it selects commissioners to fill offices caused by an increase in the membership of the authority. The board of county commissioners shall appoint the new members within a reasonable time.

(d) A majority of the commissioners shall constitute a quorum. The board of county commissioners shall file with the county clerk, a certificate of the appointment or reappointment of any commissioner and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. A commissioner shall receive no compensation for his services but he shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his duties.

(e) When the office of the first chairman of the authority becomes vacant, the authority shall select a chairman from among its members. An authority shall select from among its members a vice-chairman, and it may employ a secretary, technical experts, and such other officers, agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties, and compensation. An authority may employ its own counsel and legal staff. An authority may delegate to one or more of its agents or employees such powers or duties as it may deem proper.

(f) This section applies only to counties with a population of less than 75,000, according to the most recent decennial federal census but does not apply to any authority established jointly by a city and a county."

Sec. 2. This act is effective upon ratification but shall not be deemed to invalidate the appointment of commissioners serving on hospital authorities at or before ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1981.
H. B. 751  

CHAPTER 526

AN ACT TO CLARIFY CIRCUMSTANCES UNDER WHICH A NONSECURE CUSTODY ORDER MAY BE ENTERED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-574(a) is rewritten to read:

"(a) When a request is made for nonsecure custody, the judge shall order nonsecure custody only when he finds that there is a reasonable factual basis to believe the matters alleged in the petition are true, and

1. the juvenile has been abandoned; or
2. the juvenile has suffered physical injury or sexual abuse; or
3. the juvenile is exposed to a substantial risk of physical injury or sexual abuse because the parent, guardian, or custodian has created the conditions likely to cause injury or abuse or has failed to provide, or is unable to provide, adequate supervision or protection; or
4. the juvenile is in need of medical treatment to cure, alleviate, or prevent suffering serious physical harm which may result in death, disfigurement, or substantial impairment of bodily functions, and his parent, guardian, or custodian is unwilling or unable to provide or consent to the medical treatment; or
5. the parent, guardian or custodian consents to the nonsecure custody order.

In no case shall a juvenile alleged to be abused, neglected, or dependent be placed in secure custody."

Sec. 2. This act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 8th day of June, 1981.

H. B. 933  

CHAPTER 527

AN ACT TO ELIMINATE SPECIAL REQUIREMENTS FOR DEEDS CONVEYING CONDOMINIUM UNITS SO THAT THE GENERAL REQUIREMENTS OF REAL ESTATE LAW APPLY, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 47A-14 is hereby repealed.

Sec. 2. Chapter 47A of the General Statutes is hereby amended by adding a new section thereto to read as follows:

"§47A-14.1. Deeds conveying units.—Any conveyance of a condominium unit executed on or after October 1, 1981, which complies with the general requirements of the laws of this State concerning conveyances of real property shall be valid."

Sec. 3. All conveyances of condominium units executed before October 1, 1981, which comply with the general requirements of the laws of this State concerning conveyances of real property shall be valid even though such conveyances failed to comply with one or more of the particulars set out in former G.S. 47A-14.

Sec. 4. This act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 8th day of June, 1981.
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H. B. 995 CHAPTER 528

AN ACT TO AMEND CHAPTER 7A OF THE GENERAL STATUTES TO ALLOW THE JUVENILE COURT JUDGE TO APPOINT A NONLAWYER AS GUARDIAN AD LITEM IN ABUSE AND NEGLECT CASES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-586 is rewritten to read:

"§ 7A-586. Appointment and duties of guardian ad litem.—When in a petition a juvenile is alleged to be abused or neglected, the judge shall appoint a guardian ad litem to represent the juvenile. The duties of the guardian ad litem shall be to make an investigation to determine the facts, the needs of the juvenile, and the available resources within the family and community to meet those needs; to facilitate, when appropriate, the settlement of disputed issues; to explore options with the judge at the dispositional hearing; and to protect and promote the best interest of the juvenile until formally relieved of the responsibility by the judge. When the appointed guardian ad litem is not an attorney licensed to practice in the State of North Carolina, he may employ an attorney when the employment is authorized by the court and pursuant to Chapter 7A or request the appointment of an attorney to appear on behalf of the juvenile in the court proceeding and to assist the guardian ad litem by performing necessary and appropriate legal services on the juvenile's behalf, to present relevant facts to the judge at the adjudicatory hearing and to appeal, when advisable, from an adjudication or order of disposition to the Court of Appeals.

The judge may order the Department of Social Services or the guardian ad litem to conduct follow-up investigations to insure that the orders of the court are being properly executed and to report to the court when the needs of the juvenile are not being met. The judge may also authorize the guardian ad litem to accompany the juvenile to court in any criminal action wherein he may be called on to testify in a matter relating to abuse.

The judge may grant the guardian ad litem the authority to demand any information or reports whether or not confidential, that may in the guardian ad litem's opinion be relevant to the case. Neither the physician-patient privilege nor the husband-wife privilege may be invoked to prevent the guardian ad litem and the court from obtaining such information. The confidentiality of the information or reports shall be respected by the guardian ad litem and no disclosure of any information or reports shall be made to anyone except by order of the judge."

Sec. 2. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 8th day of June, 1981.
The General Assembly of North Carolina enacts:

Section 1. G.S. 116-36.1(g) is amended by adding a new subdivision (g) to read:

“(8) The net proceeds from the disposition effected pursuant to G.S. Chapter 146, Article 7, of any interest in real property owned by or under the supervision and control of an institution if the interest in real property had first been acquired by gift, devise, or bequest or through expenditure of monies defined in this subsection (a) as ‘trust funds’, except the net proceeds from the disposition of an interest in real property first acquired by the institution through expenditure of monies received as a grant from a State agency.”

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1981.

H. B. 1029  CHAPTER 530
AN ACT TO PROMOTE COMMUNITY SERVICE RESTITUTION AS A CONDITION OF PROBATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-1343(d) is amended by deleting the sentence which reads: “Provided, that no government agency shall benefit by way of restitution or reparation except for particular damage or loss to it over and above its normal operation costs.” and substituting the following sentences: “Provided, that no government agency shall benefit by way of restitution except for particular damage or loss to it over and above its normal operating costs. A government agency may benefit by way of reparation even though the agency was not a party to the crime provided that when reparation is ordered, community service work shall be rendered only after approval has been granted by the owner or person in charge of the property or premises where the work will be done.”

Sec. 2. The first sentence of G.S. 15A-1343(d) is amended by deleting the words “for which the defendant has been convicted” and substituting therefor the words “committed by the defendant”.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1981.
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S. B. 417  CHAPTER 531
AN ACT TO MAKE TECHNICAL CHANGES TO CHAPTER 116B REGARDING ESCHEATS AND ABANDONED PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 116B-3 is amended by rewriting the last sentence thereof to read as follows:

"The provisions of this section and G.S. 116B-2 shall apply to the estate of a person missing for 30 days or more and the State Treasurer may bring an action to have a receiver appointed in such case under the provisions of Chapter 28C, Estates of Missing Persons."

Sec. 2. G.S. 116B-10(5) is amended at the end thereof by adding the following:

"or a hospital, medical or dental service corporation organized under Chapter 57 of the General Statutes."

Sec. 3. G.S. 116B-14(a) is amended on line 3 by adding after "G.S. 58-2(3)" the following:

"or a hospital, medical or dental service corporation organized under Chapter 57 of the General Statutes."

Sec. 4. G.S. 116B-28(a) is amended by deleting the date "May 1" and inserting in lieu thereof the date "March 1."

Sec. 5. G.S. 116B-28(b) is amended by adding a sentence at the end of the subsection to read as follows:

"A holder need not mail a notice to an owner for which the holder has no address."

Sec. 6. G.S. 116B-28(c)(3) is amended by deleting the date "August 1" and inserting in lieu thereof the date "November 1."

Sec. 7. G.S. 116B-29(a) is amended by deleting the words "G.S. 116B-13 or G.S. 116B-14, or both," and inserting in lieu thereof the words "one or more of the following sections, G.S. 116B-13, G.S. 116B-14, G.S. 116B-16, G.S. 116B-17, G.S. 116B-20, or G.S. 116B-21."

Sec. 8. G.S. 116B-29(d) is amended by deleting the date "September 1" and inserting in lieu thereof the date "May 1."

Sec. 9. G.S. 116B-30 is amended in the catchline by adding after the word "Treasurer" the words "and Commissioner of Insurance."

Sec. 10. G.S. 116B-30(a) is amended by deleting the words and punctuation ", which list shall contain:" and inserting in lieu thereof the following:

"reported to him, and there shall be delivered to each clerk of superior court prior to September 1 a list prepared by the Commissioner of Insurance of escheated and abandoned property reported to him, which lists shall contain."

Sec. 11. G.S. 116B-30(b) is amended on lines 2 and 6 by adding after the word "Treasurer" the words "or Commissioner of Insurance."

Sec. 12. G.S. 116B-30(c) is amended on lines 1 and 2 by adding after the word "Treasurer" the words "or Commissioner of Insurance."

Sec. 13. G.S. 116B-30(e) is amended on line 1 by adding after the word "Treasurer" the words "and the Commissioner of Insurance."

Sec. 14. G.S. 116B-31(a) is rewritten to read as follows:

"Insurers. Every insurer shall remit or deliver to the Commissioner of Insurance on or before December 1, any property deemed abandoned under the
provisions of this Chapter and reported as required by G.S. 116B-29. These remittances shall be made payable to the State Treasurer. On or before December 10, the Commissioner of Insurance shall forward the remittances to the State Treasurer along with a copy of the reports required by G.S. 116B-29."

Sec. 15. G.S. 116B-46 is amended by replacing the year "1979" with the year "1980" and by replacing the year "1980" with the year "1981" wherever it appears.

Sec. 16. G.S. 20-279.10(b) is amended by deleting the following from the last sentence thereof "and the Treasurer shall turn such deposit over to The University of North Carolina as an escheat.", and is further amended by adding a new sentence at the end thereof to read as follows:

"These deposits shall be turned over to the Escheat Fund of the Department of State Treasurer."

Sec. 17. G.S. 62-209(c) is amended by deleting the following from the last sentence thereof "University of North Carolina" and inserting in its place the following: "Escheat Fund of the Department of State Treasurer."

Sec. 18. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of June, 1981.

H. B. 899 CHAPTER 532

AN ACT TO AMEND THE LAW RELATING TO SUPPLEMENTAL RETIREMENT BENEFITS OF MONROE FIREMEN.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 31, 1975 Session Laws, First Session, is deleted and the following substituted:

"Sec. 3. This act does not modify or alter in any way the Workmen's Compensation Laws of the State of North Carolina."

Sec. 2. Subsections (a) and (b) of Section 4 of Chapter 31, 1975 Session Laws, First Session, are deleted and the following substituted:

"(a) Each full-time member of the Monroe Fire Department of the City of Monroe who retired after January 1, 1975, with 30 years or more of service as a member of the Monroe Fire Department, or each full-time member of the Monroe Fire Department of the City of Monroe who retired after January 1, 1975, with 25 years or more of service as a member of the Monroe Fire Department and who is at least 55 years old or any member of the Monroe Fire Department who for any reason has become totally and permanently disabled to perform his normal duties and has served as a member of the Monroe Fire Department in and for the City of Monroe for a period of five or more years, shall be entitled to and shall receive in each calendar year, following the calendar year in which he retires, the supplemental retirement benefits as follows: one share for each full year of service as a member of the fire department of the City of Monroe. The amount of each share shall be determined annually by dividing the total number of years served by all eligible retired members of the fire department into the total amount set aside by the Board of Trustees to be disbursed for the calendar year; provided, in no event shall any retired full-time member of the fire department be entitled to or receive in any year an annual supplemental benefit in excess of six hundred dollars ($600.00)."
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(b) Public service officers (PSO) shall be considered full-time members of the fire department for receiving supplemental retirement benefits based on age but shall be considered full-time members of the fire department for supplemental retirement benefits based on permanent disability only when the disability was caused as a result of performing their duties as members of the fire department."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of June, 1981.

H. B. 927 CHAPTER 533

AN ACT TO PROVIDE A SUPPLEMENTAL RETIREMENT FUND FOR FIREMEN IN THE TOWN OF FARMVILLE AND TO MODIFY THE APPLICATION OF G.S. 118-5, 118-6 AND 118-7 TO THE TOWN OF FARMVILLE.

The General Assembly of North Carolina enacts:

Section 1. Supplemental retirement fund created. The Board of Trustees of the Local Firemen's Relief Fund of the Town of Farmville, as established in accordance with G.S. 118-6, hereinafter called the Board of Trustees, shall create and maintain a separate fund to be called the Farmville Firemen's Supplemental Retirement Fund, hereinafter called the Supplemental Retirement Fund, and shall maintain books of account for this fund, separate from the books of account of the Firemen's Local Relief Fund of the Town of Farmville, hereinafter called the Local Relief Fund. The Board of Trustees shall pay into the Supplemental Retirement Fund the funds prescribed by this act.

Sec. 2. Transfer of funds and disbursements. Notwithstanding the provisions of G.S. 118-7, the Board of Trustees of the Local Firemen's Relief Fund of the Town of Farmville shall:

(a) prior to January 10, 1982, and prior to January 10 in each subsequent year, transfer to the Supplemental Retirement Fund, all earnings on investments of the Local Relief Fund for the preceding 12 months;

(b) as soon as practicable after January 10 of each year, divide the funds belonging to the Supplemental Retirement Fund into equal shares and disburse the same as supplemental retirement benefits in accordance with Section 3 of this act.

Sec. 3. Supplemental retirement benefits. The number of retired firemen, as described in this section, divided into the amount of funds in the Supplemental Retirement Fund on January 10 of each year, shall be equal one share. Each retired fireman of the Town of Farmville, whether paid or volunteer, who has previously retired with 20 years' service or more, as a fireman of the Town of Farmville and has reached the age of 55 years, shall be entitled to and shall receive in each calendar year following the calendar year in which he retires, one share of the Supplemental Retirement Fund. Members of the Town of Farmville Fire Department who have been totally and permanently disabled resulting from service-related sickness or injuries shall also be entitled to the benefits as outlined above. Also, members of the Town of Farmville Fire Department with 10 years of service as active firemen, and who
become totally and permanently disabled for any reason, shall also be entitled
to the above benefits, regardless of age.

Sec. 4. Acceptance of gifts. The Board of Trustees may accept any gift,
grant, bequest, or donation of money for the use in the Supplemental
Retirement Fund.

Sec. 5. Treasurer of fund. The Treasurer of the Firemen’s Local Relief
Fund shall also serve as the Treasurer of the Supplemental Retirement Fund
and the Board of Trustees shall bond the treasurer with a good and sufficient
bond, in an amount at least equal to the amount of funds in his control, payable
to the Board of Trustees. Such bond shall be in lieu of the bond required by G.S.
118-6. The Board of Trustees may pay the premium for the bond of the
treasurer from the Supplemental Retirement Fund.

Sec. 6. Town authorized to make payments. The governing body of the
Town of Farmville may make appropriations and disburse funds to the
Supplemental Retirement Fund.

Sec. 7. Severability. If any provision of this act is declared invalid by a
court of competent jurisdiction, this invalidity shall not affect other provisions
which can be given effect without the invalid provision, and to this end the
provisions of this act are declared to be severable.

Sec. 8. Effective date. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 9th day of
June, 1981.

H. B. 1017  CHAPTER 534
AN ACT TO ALLOW CREDITS IN UNEMPLOYMENT INSURANCE
FUND ACCOUNTS TO BE TRANSFERRED WHEN EXPERIENCE
RATING EMPLOYERS CHANGE TO REIMBURSEMENT
EMPLOYERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 96-9(d)(1)d., as it appears in the 1981 Replacement
Volume 2C of the General Statutes, is amended by adding the following at the end thereof: “Provided, however, any nonprofit employer formerly paying
contributions who elects and qualifies to change to a reimbursement basis may
be relieved of the requirement to pay one percent (1%) of taxable wages as
required by G.S. 96-9(d)(2)a. to the following extent and upon the following
conditions:

(i) Any nonprofit employer which has, for the year the election will be
effective, an experience rating of 1.7 or less, will have transferred from its
experience rating account an amount equal to one percent (1%) of its payroll as
reported for each of the four calendar quarters which constitute the election
year;

(ii) Any nonprofit employer which has, for the year the election will be
effective, an experience rating of less than 2.7 but more than 1.7, will have
transferred from its experience rating account an amount equal to one-half of
one percent (.5%) of its payroll as reported for each of the four calendar quarters
which constitute the election year. Such employers shall make advance
payments to the Commission quarterly, computed at one-half of one percent
(.5%) of the taxable wages reported as provided in G.S. 96-9(d)(2)a.;
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(iii) Any nonprofit employer which has, for the year the election will become effective, an experience rating of 2.7 or more, upon electing to change to a reimbursement basis, will meet all the requirements of G.S. 96-9(d)(2)a., including making advance payments computed at one percent (1%) of taxable wages."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of June, 1981.

S. B. 138  CHAPTER 535

AN ACT TO MAKE ASSAULT ON EMERGENCY MEDICAL SERVICES PERSONNEL A FELONY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-34.2 is rewritten to read:

"§ 14-34.2. Assault with a firearm or other deadly weapon upon law enforcement officer, fireman, or emergency medical services personnel.—Any person who commits an assault with a firearm or any other deadly weapon upon any:
(1) law enforcement officer;
(2) fireman; or
(3) emergency medical services personnel certified to transport patients, including ambulance attendants, emergency medical technicians, emergency medical technician intermediates, and emergency medical technician paramedics, when responding to a call;
in the performance of his duties shall be guilty of a Class I felony."

Sec. 2. This act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 10th day of June, 1981.

S. B. 593  CHAPTER 536

AN ACT TO AMEND CHAPTER 136 TO REQUIRE A NOTICE, PUBLIC MEETING AND A STATEMENT OF THE SPECIFIC REASON FOR A RECOMMENDATION BY THE BOARD OF COUNTY COMMISSIONERS FOR A DEVIATION IN THE PAVING PROJECTS OR THE PRIORITY OF TENTATIVE SECONDARY ROAD PAVING PROJECTS IN THE ANNUAL WORK PROGRAM PROPOSED BY THE DEPARTMENT OF TRANSPORTATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-44.8 is rewritten to read as follows:

"§ 136-44.8. Submission of secondary roads construction programs to the Boards of County Commissioners.—(a) The Department of Transportation shall post in the county courthouse a county map showing tentative secondary road paving projects rated according to the priority of each project in accordance with the criteria and standards adopted by the Board of Transportation. The map shall be posted at least two weeks prior to the public meeting of the county commissioners at which the Department of Transportation representatives are to meet and discuss the proposed secondary road construction program for the county as provided in subsection (c)."
(b) The Department of Transportation shall provide a notice to the public of the public meeting of the Board of County Commissioners at which the annual secondary road construction program for the county proposed by the Department is to be presented to the Board and other citizens of the county as provided in subsection (c). The notice shall be published in a newspaper published in the county or having a general circulation in the county once a week for two succeeding weeks prior to the meeting. The notice shall also advise that a county map is posted in the courthouse showing tentative secondary road paving projects rated according to the priority of each project.

(c) Representatives of the Department of Transportation shall meet with the Board of County Commissioners at a regular or special public meeting of the Board of County Commissioners for each county and present to and discuss with the Board of County Commissioners and other citizens present, the proposed secondary road construction program for the county. The presentation and discussion shall specifically include the priority rating of each tentative secondary road paving project included in the proposed construction program, according to the criteria and standards adopted by the Board of Transportation.

At the same meeting after the presentation and discussion of the annual secondary road construction program for the county or at a later meeting, the Board of County Commissioners may (1) concur in the construction program as proposed, or (2) take no action, or (3) make recommendations for deviations in the proposed construction program, except as to paving projects and the priority of paving projects for which the Board in order to make recommendations for deviations, must vote to consider the matter at a later public meeting as provided in subsection (d).

(d) The Board of County Commissioners may recommend deviations in the paving projects and the priority of paving projects included in the proposed secondary road construction program only at a public meeting after notice to the public that the Board will consider making recommendations for deviations in paving projects and the priority of paving projects included in the proposed annual secondary road construction program. Notice of the public meeting shall be published by the Board of County Commissioners in a newspaper published in the county or having a general circulation in the county. After discussion by the members of the Board of County Commissioners and comments and information presented by other citizens of the county, the Board of County Commissioners may recommend deviations in the paving projects and in the paving priority of secondary road projects included in the proposed secondary road construction program. Any recommendation made by the Board of County Commissioners for a deviation in the paving projects or in the priority for paving projects in the proposed secondary road construction program shall state the specific reason for each such deviation recommended.

(e) The Board of Transportation shall adopt the annual secondary construction program for each county after having given the Board of County Commissioners of each county an opportunity to review the proposed construction program and to make recommendations as provided in this section. The Board of Transportation shall consider such recommendations insofar as they are compatible with its general plans, standards, criteria and available funds, but having due regard to development plans of the county and to the maintenance and improvement needs of all existing roads in the county. However, no consideration shall be given to any recommendation by the Board.
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of County Commissioners for a deviation in the paving projects or in the
priority for paving secondary road projects in the proposed construction
program that is not made in accordance with subsection (d).

(f) The secondary road construction program adopted by the Board of
Transportation shall be followed by the Department of Transportation unless
changes are approved by the Board of Transportation and notice of any changes
is given the Board of County Commissioners. The Department of
Transportation shall post a copy of the adopted program, including a map
showing the secondary road paving projects rated according to the approved
priority of each project, at the courthouse, within 10 days of its adoption by the
Board of Transportation. The Board of County Commissioners may petition
the Board of Transportation for review of any changes to which it does not
consent and the determination of the Board of Transportation shall be final.
Upon request, the most recent secondary road construction programs adopted
shall be submitted to any member of the General Assembly. The Department of
Transportation shall make the annual construction program for each county
available to the newspapers having a general circulation in the county."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of
June, 1981.

H. B. 95   CHAPTER 537

AN ACT TO PROVIDE JUDICIAL REVIEW OF A PSYCHIATRIST'S
DETERMINATION TO RELEASE AN INVOLUNTARILY COMMITTED
MENTAL PATIENT WHO HAS COMMITTED VIOLENT ACTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122-58.8(b) is amended by adding the following sentence
between the first and second sentences of the subsection:

"If the commitment proceedings were initiated as the result of the
respondent's being charged with a violent crime, including a crime involving an
assault with a deadly weapon, and the respondent was found not guilty by
reason of insanity or incapable of proceeding, the commitment order shall so
indicate."

Sec. 2. G.S. 122-58.11(a) is amended by adding the following sentence
after the last sentence of the subsection:

"If the respondent was initially committed as the result of conduct resulting
in his being charged with a violent crime, including a crime involving an assault
with a deadly weapon, and respondent was found not guilty by reason of
insanity or incapable of proceeding, the clerk shall also notify the Chief District
Court Judge, the clerk of superior court, and the district attorney in the county
in which the respondent was found not guilty by reason of insanity or
incompetent to proceed, of the time and place of the hearing."

Sec. 3. G.S. 122-58.11 is amended by adding a new subsection (a1) to read
as follows:

"(a1) Fifteen days before the end of the initial treatment period of a
respondent who was initially committed as a result of conduct resulting in his
being charged with a violent crime, including a crime involving an assault with
a deadly weapon, and such person having been found not guilty by reason of
insanity or incapable of proceeding, if the chief of medical services of the
inpatient facility determines that treatment of the respondent beyond the initial period will not be necessary, he shall so notify the clerk of superior court for the scheduling of a rehearing as provided in G.S. 122-58.13(b)."

Sec. 4. G.S. 122-58.11(e) is amended by rewriting the last sentence to read as follows:

"No recommitment ordered shall be for a period longer than one year."

Sec. 5. G.S. 122-58.13 is rewritten to read as follows:

"§ 122-58.13. Release and conditional release; judicial review.—(a) Except as provided in subsection (b), the chief of medical services of a public or private mental health facility shall discharge a committed respondent unconditionally at any time he determines that the patient is no longer in need of hospitalization. Except as provided in subsection (b), he may also release a respondent conditionally, for periods not in excess of 30 days, on specified medically appropriate conditions. Violation of the conditions is grounds for return to the releasing facility. A law enforcement officer, on written request of the chief of medical services of the facility, shall take a conditional releasee into custody and return him to the facility. Notice of discharge and of conditional release shall be furnished to the clerk of superior court of the county of commitment and of the county in which the facility is located.

(b) If the respondent was initially committed as the result of conduct resulting in his being charged with a violent crime, including a crime involving an assault with a deadly weapon, and respondent was found not guilty by reason of insanity or incapable of proceeding, 15 days before the respondent’s discharge or conditional release the chief of medical services of a public or private mental health facility shall notify the clerk of superior court of the county in which the facility is located of his determination that the respondent is no longer in need of hospitalization. The clerk must then schedule a rehearing to determine the appropriateness of respondent’s release under the standards of commitment set forth in G.S. 122-58.8. The clerk shall give notice as provided in G.S. 122-58.11(a). The district attorney of the district where respondent was found not guilty by reason of insanity or incapable of proceeding may represent the State’s interest at the hearing."

Sec. 6. G.S. 122-58.7A is amended by adding a new subsection (c) as follows:

"(c) Upon the motion of any interested party, the venue of the rehearing required by G.S. 122-58.13(b) shall be moved to the county of the original commitment when the convenience of witnesses and the ends of justice would be promoted by the change, or when the judge has, at any time, been interested as party or counsel."

Sec. 7. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 10th day of June, 1981.
H. B. 162       CHAPTER 538
AN ACT TO AMEND G.S. 115C-325.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-325(a)(4), as enacted by Chapter 423 of the 1981 Session Laws, is amended by rewriting the first sentence as follows:

"'Demote' means to reduce the compensation of a person who is classified or paid by the State Board of Education as a classroom teacher, or to transfer him to a new position carrying a lower salary, or to suspend him without pay to a maximum of 30 days; provided, however, that a suspension without pay pursuant to the provisions of G.S. 115C-325(l) shall not be considered a demotion."

Sec. 2. G.S. 115C-325, as enacted by Chapter 423 of the 1981 Session Laws, is amended by redesignating the succeeding subsections and adding a new subsection (g) as follows:

“(g) Suspension with pay. If a superintendent believes that cause may exist for dismissing or demoting a probationary or career teacher for any reasons specified in G.S. 115C-325(e)(1)b through G.S. 115C-325(e)(1)j, but that additional investigation of the facts is necessary and circumstances are such that the teacher should be removed immediately from his duties, the superintendent may suspend the teacher with pay for a reasonable period of time, not to exceed 90 days. The superintendent shall immediately notify the board of education of his action. If the superintendent has not initiated dismissal or demotion proceedings against the teacher within the 90-day period, the teacher shall be reinstated to his duties immediately and all records of the suspension with pay shall be removed from the teacher’s personnel file at his request."

Sec. 3. G.S. 115C-325(o), as enacted by Chapter 423 of the 1981 Session Laws, is amended by rewriting the first sentence to read:

“(o) Appeal. Any teacher who has been dismissed or demoted pursuant to subsection (l) or (m) shall have the right to appeal from the decision of the board to the superior court for the judicial district in which the teacher is employed.”

Sec. 4. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 10th day of June, 1981.

H. B. 174       CHAPTER 539
AN ACT TO PROVIDE DEFENSE OF EMPLOYEES AND OFFICERS OF AREA MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE AUTHORITIES AND OF THE AGENCIES WITH WHICH THE AREA AUTHORITY CONTRACTS FOR THE PROVISION OF SERVICES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122-35.36(10) is amended by deleting the period on line four and inserting the following:

“as provided in this Article.”
Sec. 2. Article 2F of Chapter 122 is amended by adding the following new sections:

"§122-35.40B. Liability insurance and waiver of immunity as to torts of agents, employees and board members.—(a) Any area mental health, mental retardation and substance abuse authority, by securing liability insurance as hereinafter provided, is hereby authorized and empowered to waive its governmental immunity from liability for damage by reason of death or injury to person or property caused by the negligence or tort of any agent, employee or board member of such area mental health, mental retardation and substance abuse authority when acting within the scope of his authority or within the course of his duties or employment. Such immunity shall be deemed to have been waived by the act of obtaining such insurance, but such immunity is waived only to the extent that said authority is indemnified by insurance for such negligence or tort.

(b) Any contract of insurance purchased pursuant to this section must be issued by a company or corporation duly licensed and authorized to execute insurance contracts in this State and must by its terms adequately insure the area mental health, mental retardation and substance abuse authority against any and all liability for any damages by reason of death or injury to a person or property proximately caused by the negligent acts or torts of the agents, employees and board members of said authority when acting within the course of their duties or employment. The area mental health, mental retardation and substance abuse board shall determine the extent of liability and what agents, employees by class and board members shall be covered by any insurance purchased pursuant to this subsection. Any company or corporation which enters into a contract of insurance as above described with such authority, by such act waives any defense based upon the governmental immunity of such authority.

(c) Any persons sustaining damages, or in the case of death, his personal representative may sue an authority insured under this section for the recovery of such damages in any court of competent jurisdiction in this State, but only in a county located within the geographic limits of the authority; and it shall be no defense to any such action that the negligence or tort complained of was in pursuance of governmental, municipal or discretionary function of such authority if, and to the extent, such authority has insurance coverage as provided by this section.

(d) Except as hereinbefore expressly provided, nothing in this section shall be construed to deprive any such authority of any defense whatsoever to any such action for damages or to restrict, limit, or otherwise affect any such defense which said authority may have at common law or by virtue of any statute and nothing in this section shall be construed to relieve any person sustaining damages or any personal representative of any decedent from any duty to give notice of such claim to said authority or to commence any civil action for the recovery of damages within the applicable period of time prescribed or limited by statute.

(e) Such authority may incur liability pursuant to this section only with respect to a claim arising after such authority has procured liability insurance pursuant to this section and during the time when such insurance is in force.

(f) No part of the pleadings which relate to or allege facts as to a defendant's insurance against liability shall be read or mentioned in the presence of the trial
jury in any action brought pursuant to this section. Such liability shall not attach unless the plaintiff shall waive the right to have all issues of law or fact relating to insurance in such an action determined by a jury and such issues shall be heard and determined by the judge without resort to a jury and the jury shall be absent during any motions, arguments, testimony or announcement of findings of fact or conclusions of law with respect to insurance.

“§ 122-35.40C. Defense of agents, employees and board members.—(a) Upon request made by or in behalf of any agent, employee or board member or former agent, employee or board member of the area mental health, mental retardation and substance abuse authority, any such authority may provide for the defense of any civil or criminal action or proceeding brought against him either in his official or in his individual capacity, or both, on account of any act done or omission made, or any act allegedly done or omission allegedly made, in the scope and course of his duty as an agent, employee or board member of the authority. The defense may be provided by the local board by employing counsel or by purchasing insurance which requires that the insurer provide the defense. Nothing in this section shall be deemed to require any such authority to provide for the defense of any action or proceeding of any nature.

(b) Any such authority may budget funds for the purpose of paying all or part of the claim made or any civil judgment entered against any of its agents, employees or board members or former agents, employees or board members when such claim is made or such judgment is rendered as damages on account of any act done or omission made, or any act allegedly done or omission allegedly made, in the scope and course of his duty as an agent, employee or board member of such authority. Nothing in this section shall authorize any authority to budget funds for the purpose of paying any claim made or civil judgment against any of its agents, employees or board members, or former agents, employees or board members, if the authority finds that such agent, employee or board member acted or failed to act because of actual fraud, corruption or actual malice on his part. Any authority may budget for and purchase insurance coverage for payment of claims or judgments pursuant to this section. Nothing in this section shall be deemed to require any authority to pay any claim or judgment referred to herein, and the purchase of insurance coverage for payment of such claim or judgment shall not be deemed an assumption of any liability not covered by such insurance contract, and shall not be deemed an assumption of liability or payment of any claim or judgment in excess of the limits of coverage in such insurance contract.

(c) Subsection (b) of this section shall not authorize any authority to pay all or part of a claim made or civil judgment entered or to provide a defense to a criminal charge unless (i) notice of the claim or litigation is given to the authority prior to the time that the claim is settled or civil judgment is entered and (ii) the authority shall have adopted, and made available for public inspection, uniform standards under which claims made, civil judgments entered, or criminal charges against agents, employees or board members or former agents, employees or board members shall be defended or paid.

(d) The board or boards of county commissioners which establish the area mental health, mental retardation and substance abuse authority and the Secretary of the Department of Human Resources are hereby authorized to allocate funds not otherwise restricted by law, in addition to the funds allocated
for the operation of the program, for the purpose of paying legal defense, judgments and settlements under the provisions of this section."

Sec. 3. G.S. 122-35.49 is amended by denoting the existing section as subsection (a) and by adding a new subsection to read:

"(b) The area authority may also provide the other public or private agencies, institutions or resources with funds to purchase liability insurance, to provide legal representation and to pay any claim with respect to liability for acts, omissions or decisions by members of the boards or employees of the agencies, institutions and resources with whom the area authority contracts; provided, that the acts, omissions and decisions must arise out of the performance of the contract and must not result from actual fraud, corruption or actual malice on the part of the board members or employees."

Sec. 4. The provisions of this act shall apply to both single county and multi-county area mental health, mental retardation and substance abuse authorities.

Sec. 5. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 10th day of June, 1981.

H. B. 239

CHAPTER 540

AN ACT TO CLARIFY RULE 4(j) OF THE RULES OF CIVIL PROCEDURE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1A-1, Rule 4(j) is amended by adding in the first sentence after the word "process" and before the word "shall" the phrase "within or without the State".

Sec. 2. G.S. 1A-1, Rule 4(j)(1)c. is amended by deleting the word "only".

Sec. 3. G.S. 1A-1, Rule 4(j)(9)c. is amended by redesignating the paragraph as section (j1) and rewriting the heading and the first sentence to read:

"(j1) Service by publication on party that cannot otherwise be served.—A party that cannot with due diligence be served by personal delivery or registered or certified mail may be served by publication."

Sec. 4. G.S. 1A-1, Rule 4 is amended by adding a new section to read:

"(j2) Proof of service.—Proof of service of process shall be as follows:

(1) Personal service.—Before judgment by default may be had on personal service, proof of service must be provided in accordance with the requirements of G.S. 1-75.10(1).

(2) Registered or certified mail.—Before judgment by default may be had on service by registered or certified mail, the serving party shall file an affidavit with the court showing proof of such service in accordance with the requirements of G.S. 1-75.10(4). This affidavit together with the return receipt signed by the person who received the mail if not the addressee raises a presumption that the person who received the mail and signed the receipt was an agent of the addressee authorized by appointment or by law to be served or to accept service of process or was a person of suitable age and discretion residing in the addressee’s dwelling house or usual place of abode. In the event the presumption described in the preceding sentence is rebutted by proof that the person who received the receipt at the addressee’s dwelling house or usual place of abode was not a person of suitable age and discretion residing therein,
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the statute of limitation may not be pleaded as a defense if the action was initially commenced within the period of limitation and service of process is completed within 60 days from the date the service is declared invalid. Service shall be complete on the day the summons and complaint are delivered to the address.

(3) Publication.—Before judgment by default may be had on service by publication, the serving party shall file an affidavit with the court showing the circumstances warranting the use of service by publication and proof of service in accordance with G.S. 1-75.10(2).”

Sec. 5. G.S. 1A-1, Rule 4(j)(9)d. is amended by redesignating the paragraph as Section (j3) and rewriting the heading to read:

“Service in a foreign country.—” and by deleting in the first sentence the phrase “under this subsection (9)” and by deleting the last sentence and substituting in lieu thereof the following: “Proof of service may be made as prescribed in G.S. 1-75.10, by the order of the court, or by the law of the foreign country. Proof of service by mail shall include an affidavit or certificate of addressing and mailing by the clerk of court.”

Sec. 6. G.S. 1A-1, Rule 4 is amended by adding a new section to read:

“(j4) No party may attack service of process or a judgment of default on the basis that service should or could have been effected by personal service rather than service by registered or certified mail. No party that receives timely actual notice may attack a judgment by default on the basis that the statutory requirement of due diligence as a condition precedent to service by publication was not met.”

Sec. 7. G.S. 1A-1, Rule 4(j1) is redesignated (j5).

Sec. 8. G.S. 1A-1, Rule 4(j)(9), except paragraphs c. and d., is repealed.

Sec. 9. G.S. 1-75.10(1)b is amended by deleting the phrase “Rule 4(j)(9)d” and inserting in lieu thereof the phrase “Rule 4(j3)”.

Sec. 10. G.S. 1-75.10(4) is amended by deleting the phrase “showing the circumstances warranting the use of service by registered or certified mail and”.

Sec. 11. This act shall become effective October 1, 1981, and applies to actions commenced on or after this date.

In the General Assembly read three times and ratified, this the 10th day of June, 1981.

H. B. 374    CHAPTER 541

AN ACT TO ELIMINATE THE PAROLE COMMISSION FROM WORK RELEASE DECISIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 148-33.1(a) is amended by deleting the phrase “not exceeding five years” in the first sentence.

Sec. 2. G.S. 148-33.1(b) is repealed and the remaining subsections of G.S. 148-33.1 are relettered accordingly.

Sec. 3. G.S. 148-33.1(d) is amended by deleting the phrase in the first sentence “The Parole Commission” and by substituting the following: “The Secretary of Correction”.

Sec. 4. G.S. 148-33.2(a) is amended by deleting the phrase in the first sentence “and the Parole Commission are” and by substituting the word “is”.

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Section 5. G.S. 148-33.2(a) is further amended by deleting the phrase in the second sentence "and the Parole Commission" both times it appears.

Section 6. G.S. 148-33.2(b) is amended by deleting in the first sentence the phrase "and the Parole Commission are" and by substituting the word "is".

Section 7. G.S. 148-33.2(b) is further amended by deleting the phrase in the second sentence "and the Parole Commission".

Section 8. G.S. 148-33.2(c) is amended by deleting from the first sentence the phrase "the Parole Commission and".

Section 9. G.S. 148-33.2(d) is amended by deleting from the first sentence the phrase "and the Parole Commission".

Section 10. This act shall become effective on July 1, 1981, and shall apply only to work release decisions involving persons sentenced under Article 81A of Chapter 15A of the General Statutes.

In the General Assembly read three times and ratified, this the 10th day of June, 1981.

H.B. 881  CHAPTER 542

AN ACT TO SPECIFY THE PROCEDURE FOR APPEALING DENIAL OF REGISTRATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-75 as the same appears in Volume 3D of the General Statutes is rewritten to read:

"§ 163-75. Appeal from denial of registration.—Any person who is denied registration for any reason shall be notified in writing by the county board of elections by certified mail or by notice served by the Sheriff. The registration officer specified in G.S. 163-80 before whom the applicant appeared shall submit the name and address of any voter denied registration to the chairman or supervisor of the county board of elections in order that the chairman shall be able to notify the applicant promptly of his denial. Any person who receives a notice of denial of registration may appeal the denial to the county board of elections within five days following receipt of the notice required herein. The county board of elections shall promptly set a date for a public hearing. The notice of appeal shall be in writing and signed by the appealing party and shall set forth the name, age and address of the appealing party; it shall also state the reasons for the appeal."

Section 2. G.S. 163-76 as the same appears in Volume 3D of the General Statutes is rewritten to read:

"§ 163-76. Hearing on appeal before county board of elections.—The county board of elections shall set a date and time for a public hearing and shall notify the appealing party. Every person appealing to the county board of elections from denial of registration shall be entitled to a prompt and fair hearing on the question of the denied applicant’s right and qualifications to register as a voter. All cases on appeal to a county board of elections shall be heard de novo.

Two members of the county board of elections shall constitute a quorum for the purpose of hearing appeals on questions of registration. The decision of a majority of the members of the board shall be the decision of the board. The board shall be authorized to subpoena witnesses and to compel their attendance and testimony under oath, and it is further authorized to subpoena papers and documents relevant to any matters pending before the board.
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If at the hearing the board shall find that the person appealing from a denial of registration meets all requirements of law for registration as a voter in the county, the board shall enter an order directing that the appellant be registered and assign the appellant to the appropriate precinct. Not later than five days after an appeal is heard before the county board of elections, the board shall give written notice of its decision to the appealing party."

Sec. 3. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 10th day of June, 1981.

H. B. 394  
CHAPTER 543
AN ACT TO ELIMINATE THE HYPOTHETICAL QUESTION.

The General Assembly of North Carolina enacts:

Section 1. There shall be no requirement that expert testimony be in response to a hypothetical question.

Sec. 2. If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion.

Sec. 3. Disclosure of Facts or Data Underlying Expert Opinion. Upon trial the expert may testify in terms of opinion or inference and give his reasons therefor without prior disclosure of the underlying facts or data, unless an adverse party requests otherwise, in which event the expert will be required to disclose such underlying facts or data on direct examination or voir dire before stating the opinion. The expert may in any event be required to disclose the underlying facts or data on cross-examination.

Sec. 4. This act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 11th day of June, 1981.

H. B. 814  
CHAPTER 544
AN ACT TO CLARIFY THE LICENSING OF HOMES FOR THE AGED, DISABLED AND INFIRM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 108-77 is rewritten to read:

"§ 108-77. Licensing of domiciliary homes for the aged, disabled and infirm.—

(a) The following definitions will apply in the interpretation of this section:

(1) 'Abuse' means abuse as defined in G.S. 108A-152(a).
(2) 'Developmentally Disabled Adult' means a person who has attained the age of 18 years and who has a developmental disability as defined in G.S. 143B-178(1).
(3) 'Domiciliary Home' means any facility, by whatever name it is called, which provides residential care for aged or disabled persons whose principal need is a home with the sheltered or personal care their age or disability requires. Medical care at a domiciliary home is only occasional or incidental, such as may be required in the home of any individual or family, but the administration of medication is supervised. Domiciliary homes are to be distinguished from nursing homes subject
to licensure under G.S. 130-9(e). The three types of domiciliary homes are homes for the aged and disabled, family care homes and group homes for developmentally disabled adults.

(4) ‘Exploitation’ means exploitation as defined in G.S. 108A-152(i).

(5) ‘Family Care Home’ means a domiciliary home having two to five residents. The structure of a family care home may be no more than two stories high and none of the aged or physically disabled persons being served there may be housed in the upper story without provision for two direct, exterior ground-level accesses to the upper story.

(6) ‘Group Home for Developmentally Disabled Adults’ means a domiciliary home which has two to nine developmentally disabled adult residents.

(7) ‘Home for the Aged and Disabled’ means a domiciliary home which has six or more residents.

(8) ‘Neglect’ means the failure to provide the services necessary to maintain a resident’s physical or mental health.

(b) The Department of Human Resources shall inspect and license, under the rules and regulations adopted by the Social Services Commission all domiciliary homes for persons who are aged or mentally or physically disabled except those exempted in subsection (d) of this section. Licenses issued under the authority of this section shall be valid for one year from the date of issuance unless revoked earlier by the Secretary of Human Resources for failure to comply with any part of this Article or with the regulations promulgated in accordance with the provisions of this Article. Any individual or corporation that operates a facility subject to license under this section without a license is guilty of a misdemeanor. In addition, the Department may utilize the provision for summary suspension of license found in G.S. 150A-3(c) whenever it finds substantial evidence of abuse, neglect, exploitation or any other condition which presents an immediate danger to the health and safety of any resident of the home. Notwithstanding the provisions of G.S. 8-53 or any other provisions of law relating to the confidentiality of communications between physician and patient, the representatives of the Department of Human Resources who make these inspections may review any writing or other record in any recording medium which pertains to the admission, discharge, medication, care, medical condition, or history of persons who are or have been residents, clients, or employees of the facility being inspected unless that resident or client objects in writing to such review. The representatives of the department may also interview physicians, psychologists, psychiatrists, nurses, and anyone else involved in giving care or treatment at or through the facility, to elicit confidential or privileged information, and the physician-patient privilege found in G.S. 8-53 or any other provision of law shall not be a bar to this questioning; provided the resident or client has not made written objection to such disclosure. The facility, its employees, and any person interviewed during these inspections shall be immune from liability for damages resulting from the disclosure of any information to the department. Any confidential or privileged information received from review of records or interviews shall be kept confidential by the department and not disclosed without written authorization of the resident, client, employee or legal representative or unless disclosure is ordered by a court of competent jurisdiction. The department shall institute appropriate policies and procedures to ensure that this information shall not be
disclosed without authorization or court order. The department shall not disclose the name of anyone who has furnished information concerning a facility without the consent of that person. Neither the names of persons furnishing information nor any confidential or privileged information obtained from records or interviews shall be considered 'public records' within the meaning of G.S. 132.1.

(c) Facilities which are exempt from the provisions of this section are as follows:

(1) those which care for one person only;
(2) those which care for two or more persons, all of whom are related or connected by blood or by marriage to the operator of the facility;
(3) those which make no charges for care, either directly or indirectly;
(4) those which care for no more than four persons, all of whom are under the supervision of the United States Veterans Administration.

(d) This section does not apply to any institution which is established, maintained or operated by any unit of government, by any commercial inn or hotel, or to any facility licensed by the Medical Care Commission under the provisions of G.S. 130-9(e), entitled ‘Nursing Homes’. If any nursing home licensed under G.S. 130-9(e) also functions as a domiciliary home, the the domiciliary home component must comply with regulations adopted by the Medical Care Commission.

(e) The Department of Human Resources shall provide the method of evaluation of residents in domiciliary homes in order to determine when any of those residents are in need of the professional medical and nursing care provided in licensed nursing homes.

(f) If any provisions of this act or the application of it to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable."

Sec. 2. The amendments to G.S. 108-77 shall be incorporated in G.S. Chapter 131C as recodified by Section 2 of Chapter 275 of the 1981 Session Laws.

Sec. 3. This act shall become effective January 1, 1982.

In the General Assembly read three times and ratified, this the 11th day of June, 1981.

H. B. 980

CHAPTER 545

AN ACT TO PERMIT ORGANIZATIONS PROVIDING FREE SERVICES AT HIGHWAY REST AREAS TO SOLICIT CONTRIBUTIONS.

The General Assembly of North Carolina enacts:

Section 1. Subdivision (4) of G.S. 136-89.59 is amended by deleting the words: "and solicitation of contributions, donations, etc., shall not be permitted".

Sec. 2. G.S. 136-89.59(1) is amended by adding a new sentence at the end to read:

"The applicant must be a nonprofit organization showing a record of concern for automotive, highway, or driver safety."

Sec. 3. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 11th day of June, 1981.

H. B. 981  CHAPTER 546
AN ACT TO AMEND G.S. 36A-53(b) RELATIVE TO AMENDMENT OF TRUST TO MEET THE REQUIREMENTS OF SECTION 2055(e)(2) OF THE INTERNAL REVENUE CODE OF 1954.
The General Assembly of North Carolina enacts:
Section 1. G.S. 36A-53(b) is amended by deleting the phrase “December 31, 1977” each place it appears therein and inserting in lieu thereof the phrase “December 31, 1978”.
Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 11th day of June, 1981.

H. B. 1093  CHAPTER 547
AN ACT TO REQUIRE NOTIFICATION OF APIARY OWNERS BEFORE APPLYING PESTICIDES IN THE AREA.
The General Assembly of North Carolina enacts:
Section 1. G.S. 143-443(b) is amended by adding a new subdivision (4) as follows:
“(4) For any person who contracts for the aerial application of a pesticide to permit the application of any pesticide that is designated on its labeling as toxic to bees without first notifying, based on available listings, the owner or operator of any apiary registered under the North Carolina Bee and Honey Act of 1977 that is within a distance designated by the Pesticide Board as necessary and appropriate to prevent damage or injury.”
Sec. 2. This act shall become effective October 1, 1981.
In the General Assembly read three times and ratified, this the 11th day of June, 1981.

H. B. 1095  CHAPTER 548
AN ACT TO AMEND THE HISTORIC ALBEMARLE TOUR HIGHWAY ACT TO INCLUDE THE CITY OF TARBORO.
Whereas, the General Assembly of North Carolina enacted the Historic Albemarle Tour Highway Act in 1975 in order to promote visitation to historic sites in northeastern North Carolina; and
Whereas, the City of Tarboro, Edgecombe County, is located in northeastern North Carolina; and
Whereas, the City of Tarboro has a rich history, having been settled in 1732 and incorporated in 1760, was one of the State’s leading towns before the Civil War, was the site of the 1787 General Assembly which considered the ratification of the United States Constitution, has maintained a town commons continuously for over 220 years, has been the home of many leading citizens of North Carolina, and contains several historically and architecturally significant structures; Now, therefore,
The General Assembly of North Carolina enacts:
CHAPTER 548  Session Laws—1981

Section 1. Subsection (a) of Section 2 of Chapter 567 of the Session Laws of 1975, as amended by Section 1 of Chapter 504 of the Session Laws of 1977, is hereby amended by adding immediately after subdivision (21) thereof the following subdivisions:

"(22) U.S. 258 from its junction with N.C. 561 east of Spring Hill to its junction with U.S. 64 at Tarboro.
(23) U.S. 64 from its junction with U.S. 258 in Tarboro to its junction with U.S. 17-13 at Williamson.
(24) N.C. 44 from its junction with N.C. 11 at Oak City to its junction with U.S. 258 at Tarboro."

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 11th day of June, 1981.

H. B. 1124  CHAPTER 549
AN ACT TO AMEND G.S. 20-129(d) AS IT RELATES TO SIZE OF REFLECTORS REQUIRED FOR TRAILERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-129(d) is hereby amended by striking the words “four inches” appearing in line four of the second unnumbered paragraph and inserting in lieu thereof the words “three inches”.

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 11th day of June, 1981.

H. B. 22  CHAPTER 550
AN ACT TO PROVIDE FOR THE AVAILABILITY IN FARMOWNERS’ AND OTHER PROPERTY INSURANCE POLICIES OF COVERAGE AGAINST LOSS BY WEIGHT OF ICE, SNOW, OR SLEET.

The General Assembly of North Carolina enacts:

Section 1. Article 19 of General Statutes Chapter 58 is amended by adding a new section to read:

"§58-180.3. Farmowners’ and other property policies; ice, snow, or sleet damage.—Under any policy of farmowners’ or other property insurance that insures against all direct loss by fire, lightning, or other perils that may be delivered or issued for delivery in this State with respect to any farm dwellings, appurtenant private structures, barns, or other farm buildings or farm structures located in this State, coverage shall be available for inclusion therein or supplemental thereto to include direct loss caused by weight of ice, snow, or sleet that results in physical damage to such buildings or structures, and shall be offered to all insureds requesting these policies."

Sec. 2. This act shall apply to all new and renewal policies of insurance specified in Section 1 of this act that are delivered or issued for delivery on or after the effective date of this act.

Sec. 3. This act shall become effective October 1, 1981.
In the General Assembly read three times and ratified, this the 12th day of June, 1981.
AN ACT TO EXPAND THE PAMLICO COUNTY BOARD OF EDUCATION, AND TO PROVIDE THAT FIVE MEMBERS BE ELECTED BY THE NONPARTISAN ELECTION AND RUNOFF METHOD AND TWO BY THE NONPARTISAN PLURALITY METHOD.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of G.S. 115-19, the Pamlico County Board of Education shall be elected on a nonpartisan basis at the time of the primary election in 1982 and biennially thereafter. The names of the candidates shall be printed on the ballot without reference to any party affiliation and any qualified voter residing in the county shall be entitled to vote such ballots. For the five seats provided for in Section 3 of this act, the nonpartisan election and runoff election method shall be used with the results determined as provided in G.S. 163-293, except that the runoff shall be held on the date provided by G.S. 163-111(e). For the two seats provided in Section 4 of this act, the nonpartisan plurality method shall be used with the results determined as provided in G.S. 163-292.

Sec. 2. Present members of the Pamlico County Board of Education shall serve out their current terms.

Sec. 3. Beginning with the persons elected in 1982, five members of the Pamlico County Board of Education shall reside in and represent the districts in which they reside, but the qualified voters of the entire county shall select all members of the board. The districts are as follows:

(1) Township #1;
(2) Township #2;
(3) Township #3;
(4) Township #4;
(5) Township #5.

Sec. 4. Beginning with the persons elected in 1982, two members of the Pamlico County Board of Education shall be elected at large.

Sec. 5. (a) In the 1982 election and quadrennially thereafter, one member shall be elected from Township #1, one member shall be elected from Township #2, and one member shall be elected from Township #5, all to serve four-year terms. In the 1984 election and quadrennially thereafter, one member shall be elected from Township #3 and one member shall be elected from Township #4, all to serve for four-year terms.

(b) In the 1982 election, two members shall be elected at large. The person receiving the highest number of votes shall be elected for a four-year term. The person receiving the next highest number of votes shall be elected for a two-year term. In 1984 and quadrennially thereafter, one person shall be elected for a four-year term at large. In 1986 and quadrennially thereafter, one person shall be elected at large for a four-year term.

Sec. 6. Effective on the first Monday in December of 1982, the Pamlico County Board of Education shall consist of seven members.

Sec. 7. Except as otherwise provided in this act, elections for, organization of, and filling of vacancies on the Pamlico County Board of Education shall be governed by Article 5 of Chapter 115 of the General Statutes.

Sec. 8. This act shall become effective January 1, 1982.
CHAPTER 551 Session Laws—1981

In the General Assembly read three times and ratified, this the 12th day of June, 1981.

H. B. 868 CHAPTER 552

AN ACT TO PROVIDE FOR THE PRODUCTION AND SALE OF BIOLOGICS FOR THE TREATMENT OF ANIMALS IN NORTH CAROLINA.

The General Assembly of North Carolina enact:

Section 1. Chapter 106 of the General Statutes is amended by adding a new Article to the end to read:

"ARTICLE 58.


"§ 106-710. Short title and purpose.—This Article shall be known as 'The North Carolina Biologics Law of 1981'. The purpose of the law is to provide for the production and sale of biologics for the prevention or treatment of disease in animals other than man and to establish controls for the sale and use of biologics in North Carolina.

"§ 106-711. Definitions.—For purposes of this Article, the following words, terms and phrases are defined as follows:

(1) 'Animal' means all birds and mammals, other than man, to which biologics may be administered.

(2) 'Biologics' means preparations made from living organisms and their products, including serums, vaccines, antigens and antitoxins which are used for the treatment or prevention of diseases in animals other than humans, or in the diagnosis of diseases.

(3) 'Board' means the North Carolina Board of Agriculture.

(4) 'Commissioner' means the Commissioner of Agriculture.

(5) 'Department' means the Department of Agriculture.

"§ 106-712. Rules and regulations.—The Board of Agriculture shall adopt rules and regulations necessary for the implementation and administration of this Article.

"§ 106-713. Biologics production license.—(a) No person shall engage in the production of biologics except in:

(1) An establishment licensed by the Department;

(2) An establishment licensed by the United States Department of Agriculture; or

(3) An establishment producing biologics only for use by the owner or operator of the establishment for animals owned by him, if the biologics are registered with the Commissioner.

(b) Any establishment applying for a license to produce biologics shall be inspected by the Commissioner. Approval shall be based on compliance with the rules and regulations adopted by the board.

(c) Application for a license to produce biologics shall be made on forms provided by the Commissioner and shall be accompanied by a reasonable fee as established by the board.

(d) Upon approval, a license shall be granted upon payment of the annual license fee of one hundred dollars ($100.00) for each establishment licensed, and an additional fee of fifty dollars ($50.00) for each product produced at any time
during the year. This license shall be renewed annually. The annual renewal fee shall be paid on or before the first day of July of each year.

"§ 106-714. License revocation or suspension.—The Commissioner, upon a finding that a licensed establishment producing biologics is not in compliance with this Article or any rules or regulations promulgated thereunder, may revoke or suspend the license in accordance with Chapter 150A of the General Statutes.

"§ 106-715. Registration of biologics.—(a) No person shall offer for sale or use any biologic in North Carolina unless it is registered with the Commissioner. The registration shall be made on forms provided by the Commissioner. The forms shall require the applicant to provide information showing that the biologic:

(1) is produced under procedures approved by the Commissioner;
(2) is safe and noninjurious to animals when used as directed;
(3) is labeled for proper handling, use and contents;
(4) is produced in an establishment licensed under this Article; and
(5) is not in violation of this Article or any rule or regulation promulgated thereunder.

(b) The application for registration shall also include a protocol of methods of production in detail which is followed in the production of the biologic, a sample of the label to be placed on the biologic, and any other information prescribed by the board as necessary for the implementation of this Article.

"§ 106-716. Revocation or suspension of registration.—The Commissioner, upon a finding that a registered biologic is being produced, sold or distributed in violation of this Article or any rules and regulations promulgated thereunder, may revoke or suspend the regulation in accordance with Chapter 150A of the General Statutes.

"§ 106-717. Penalties for violation.—(a) Any person adjudged to have violated any provision of this Article or the rules and regulations promulgated thereunder is guilty of a misdemeanor punishable by a fine of no less than one hundred dollars ($100.00) per violation and no more than one thousand dollars ($1,000), or imprisonment for no less than 60 days and no more than six months, or both. The Attorney General or his representative has concurrent jurisdiction with the district attorneys of this State to prosecute violations under this section.

(b) The Commissioner may apply to the Superior Court for an injunction to restrain and prevent violations of this Article or the rules and regulations promulgated thereunder irrespective of whether there exists an adequate remedy elsewhere at law.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of June, 1981.
CHAPTER 553  Session Laws—1981

H. B. 921  CHAPTER 553
AN ACT TO ALTER THE COMPOSITION OF THE COMMISSION FOR HEALTH SERVICES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-143, as the same appears in 1978 Replacement Volume 3c of the General Statutes is amended on line 6 by deleting the word “dairyman” and by substituting the words “registered engineer experienced in sanitary engineering or a soil scientist”.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of June, 1981.

H. B. 945  CHAPTER 554
AN ACT TO CLARIFY WHAT BIRTH CERTIFICATE INFORMATION SHALL BE RETURNED TO THE REGISTER OF DEEDS IN THE COUNTY OF BIRTH.

The General Assembly of North Carolina enacts:

Section 1. G.S. 13063(a)(5) is amended by inserting a new sentence between the first and second sentences of that subdivision to read:

“The copy of each certificate of birth so transmitted shall include the color or race of the father and mother if that information is contained on the State copy of the certificate of live birth.”

Sec. 2. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 12th day of June, 1981.

H. B. 946  CHAPTER 555
AN ACT TO INCREASE THE MONETARY JURISDICTION OF MAGISTRATES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-210(1), as found in the 1979 Cumulative Supplement to Volume 1B, is amended in line 2 by substituting the words and figures “one thousand dollars ($1,000)” for the words and figures “eight hundred dollars ($800.00)”.

Sec. 2. G.S. 7A-219, as found in the 1979 Cumulative Supplement to Volume 1B, is amended in line 3 by substituting the words and figures “one thousand dollars ($1,000)” for the words and figures “eight hundred dollars ($800.00)”.

Sec. 3. G.S. 7A-273(6) and G.S. 7A-273(8) are both amended by deleting “four hundred dollars ($400.00)”, and inserting in lieu thereof “five hundred dollars ($500.00)”.

Sec. 4. G.S. 42-28 is amended in line 8 by substituting the words and figures “one thousand dollars ($1,000)” for the words and figures “eight hundred dollars ($800.00)”.

Sec. 5. G.S. 42-30 is amended in line 8 by substituting the words and figures “one thousand dollars ($1,000)” for the words and figures “eight hundred dollars ($800.00).”
Sec. 6. G.S. 7A-305(a)(2), as it appears in the 1980 Interim Supplement, is amended by deleting the words "eight hundred dollars ($800.00)" and inserting in lieu thereof the words "one thousand dollars ($1,000)".

Sec. 7. This act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 12th day of June, 1981.

H. B. 1005  CHAPTER 556
AN ACT TO PROVIDE THAT APPEALS FROM THE STATE BOARD OF ELECTIONS BE HEARD IN THE SUPERIOR COURT OF WAKE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-22 is hereby amended by adding thereto a new subsection (l), which shall read as follows:

"Notwithstanding any other provision of law, in order to obtain judicial review of any decision of the State Board of Elections rendered in the performance of its duties or in the exercise of its powers under this Chapter, the person seeking review must file his petition in the Superior Court of Wake County."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of June, 1981.

H. B. 1016  CHAPTER 557
AN ACT TO LIMIT UNUSED SICK LEAVE AS A CREDITABLE SERVICE IN THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM AND THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 128-21(5) and G.S. 135-1(5) are amended by adding between the word "compensation" and the word "of" the phrase, ", not including any terminal payments for unused sick leave,"

Sec. 2. G.S. 128-21(7a) and G.S. 135-1(7a) are amended by adding between the word "wages" and the word "derived" the phrase, "not including any terminal payments for unused sick leave,"

Sec. 3. G.S. 128-26(e) and G.S. 135-4(e) are amended in the first paragraph thereof by adding between the word "thereof" and the comma the words "not to exceed one month of credit for each two years of membership service or fraction thereof"

Sec. 4. This act shall become effective September 1, 1981.

In the General Assembly read three times and ratified, this the 12th day of June, 1981.

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CHAPTER 558  Session Laws—1981

H. B. 1058  CHAPTER 558

AN ACT TO AMEND CHAPTER 112 OF THE 1981 SESSION LAWS AS IT RELATES TO FORSYTH COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 112 of the 1981 Session Laws is hereby amended to add a paragraph to read as follows:

"This act shall not apply to Forsyth County, and the provisions of G.S. 153A-240, as that statute existed prior to the ratification of Chapter 112 shall continue to apply to Forsyth County so that the public hearing notice shall be 'prominently posted in at least three places along the road involved'."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of June, 1981.

H. B. 1081  CHAPTER 559

AN ACT TO REPEAL G.S. 163-154.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-154 is hereby repealed.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of June, 1981.

H. B. 1086  CHAPTER 560

AN ACT TO AMEND THE ABSENTEE BALLOT DEADLINE FOR THE SECOND PRIMARY TO CONFORM TO THE DEADLINE FOR OTHER ELECTIONS SET BY CHAPTER 305, SESSION LAWS OF 1981, AND TO CONFORM ABSENTEE VOTING FOR SALES TAX AND SOIL AND WATER ELECTIONS TO G.S. 163-226 AS AMENDED BY CHAPTER 140, SESSION LAWS OF 1979.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-227.1, as the same appears in the 1979 Supplement to Volume 3D of the General Statutes, is amended by substituting the word "Thursday" for the word "Wednesday" in the second paragraph.

Sec. 2. G.S. 105-465 and G.S. 105-473(a) are each amended by deleting in each place the words "except that no absentee ballots may be used".

Sec. 3. The last sentence of the third paragraph of G.S. 139-6 is repealed.

Sec. 4. This act shall become effective with respect to all elections held on and after September 1, 1981.

In the General Assembly read three times and ratified, this the 12th day of June, 1981.
AN ACT TO CHANGE THE RATE OF INTEREST IN THE CONSUMER
FINANCE ACT AND TO CORRECT SEVERAL REFERENCES TO THE
NEW LEGAL USURY RATE AND LOAN CEILING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 53-173(a) is amended by deleting the words and figures "three percent (3%) per month" in line 4 and substituting in lieu thereof the words and figures, "thirty-six percent (36%) per annum"; by deleting the words and figures "three hundred dollars ($300.00)" in line 5 and substituting in lieu thereof the words and figures "six hundred dollars ($600.00)"; and by deleting the words and figures "one and one-half percent (1-1/2%) per month" in lines 5 and 6 and substituting in lieu thereof the words and figures "fifteen percent (15%) per annum."

Sec. 2. G.S. 53-173 (c) is amended by deleting the words and figures "six percent (6%) per annum" and substituting in lieu thereof the words and figures "eight percent (8%) per annum."

Sec. 3. G.S. 53-173 (d) is amended by deleting the words and figures "six percent (6%) per annum" and substituting in lieu thereof the words and figures "eight percent (8%) per annum."

Sec. 4. G.S. 53-175 (b) is amended by deleting the words and figures "six percent (6%) per annum" and substituting in lieu thereof the words and figures "eight percent (8%) per annum."

Sec. 5. G.S. 53-179 is amended by deleting the words and figures "fifteen hundred dollars ($1500)" both places where it appears and substituting in lieu thereof the words and figures "three thousand dollars ($3,000)."

Sec. 6. G.S. 53-179 is amended by deleting the words and figures "six percent (6%) per annum" and substituting in lieu thereof the words and figures "eight percent (8%) per annum."

Sec. 7. G.S. 53-176 is amended by deleting in lines 8 and 9 the words and figures "an effective rate of fifteen percent (15%) per annum upon the outstanding balance:" and by substituting in lieu thereof the following words and figures:

"the rate in effect as announced and published by the Commissioner of Banks pursuant to G.S. 24-1.1(3) and G.S. 24-1.2(3).

Such rate shall be the latest published noncompetitive rate for U. S. Treasury bills with a six-month maturity as of the fifteenth day of the month plus six percent (6%), rounded upward or downward, as the case may be, to the nearest one-half of one percent (1/2 of 1%) or sixteen percent (16%), whichever is greater. If there is no nearest one-half of one percent (1/2 of 1%), the Commissioner shall round downward to the lower one-half of one percent (1/2 of 1%). The rate so announced shall be the maximum rate permitted for the following calendar month on all loans made under this section."

Sec. 8. G.S. 53-184(a) is rewritten to read as follows:

"(a) Each licensee shall maintain all books and records relating to loans made under this Article required by the Commissioner of Banks to be kept, and the Commissioner, his deputy, or duly authorized examiner or agent or employee is authorized and empowered to examine such records at any reasonable time. Such books and records may be maintained in the form of magnetic tape, magnetic disk or other form of computer, electronic or microfilm media.
available for examination on the basis of computer printed reproduction, video display or other medium acceptable to the Commissioner of Banks; provided, however, that such books and records so kept must be convertible into clearly legible tangible documents within a reasonable time. Any licensee having more than one licensed office may maintain such books and records at a location other than the licensed office location if such location is within the State of North Carolina; provided that, subject to such requirements as may be imposed by the Commissioner of Banks, there shall be available to the borrower at each licensed location or such other location convenient to the borrower, as designated by the licensee, complete loan information; and provided further that such books and records of each licensed office shall be clearly segregated. Where the data processing for any licensee is performed by a person other than the licensee, the licensee shall provide to the Commissioner of Banks a copy of a binding agreement between the licensee and the data processor which allows the Commissioner of Banks, his deputy, or duly authorized examiner or agent or employee to examine that particular data processor's activities pertaining to the licensee to the same extent as if such services were being performed by the licensee on its own premises; and, notwithstanding the provisions of G.S. 53-167 and G.S. 53-122, when billed by the Commissioner of Banks, the licensee shall reimburse the Commissioner of Banks for all costs and expenses incurred by him in such examination."

Sec. 9. This act shall become effective 30 days after ratification and shall apply only to loans made after the effective date of this act and before July 1, 1983. Unless the General Assembly shall provide otherwise before July 1, 1983, all rates of charge established by this act are repealed and all loans made on or after that date shall be made under the applicable rates of charge on the day before the effective date of this act.

In the General Assembly read three times and ratified, this the 12th day of June, 1981.

S. B. 380

CHAPTER 562
AN ACT TO AUTHORIZE THE DEPARTMENT OF HUMAN RESOURCES TO CHARGE RATES AND FEES FOR SERVICES RENDERED TO THE PUBLIC.

Whereas, the Administrative Rules Review Committee has required that agencies have a specific grant of rulemaking authority in order to set rates and fees and to this end sponsored HB 1521 in the 1979 Session, which was ratified and codified as G.S. 12-3.1 and becomes effective May 1, 1981; and

Whereas, all departments are required to authorize rates and fees before May 1, 1981; and

Whereas, the Department of Human Resources is currently charging fees and establishing rates for a number of services; and

Whereas, the Department of Human Resources provides various services based on the ability of the client to pay for those services but needs a specific grant of authority to help defray the costs of services; Now, therefore,

The General Assembly of North Carolina enacts:

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Section 1. G.S. 90A-27 is amended by redesignating the current section as subsection (a) and by adding a new subsection (b) to read:

"(b) In establishing procedures for receiving renewal applications, the Board of Certification may establish fees or a schedule of fees, adequate to meet the anticipated costs of renewal of certification, not to exceed fifty dollars ($50.00) per license."

Sec. 2. G.S. 97-72 is amended by designating the first paragraph as subsection (a) and is further amended by rewriting the second paragraph to read:

"(b) The members of the advisory medical committee shall be paid one hundred dollars ($100.00) per month and not to exceed three dollars ($3.00) per film examined. The fee per film shall be determined and approved by the Secretary of Human Resources."

Sec. 3. G.S. Chapter 115 is hereby amended by adding a new section G.S. 115-343, to read:

"§115-343. Fees for athletic programs; appeal.—The Secretary of Human Resources may establish by regulation fees not to exceed one hundred dollars ($100.00) per year to support the athletic program and after school student activities and an appeal process under G.S. 150A by which a student unable to pay may prove that he is unable to pay and be relieved of the fee."

Sec. 4. G.S. 130-11 is amended by adding three new subsections to the end to read:

"(14) The Secretary of the Department of Human Resources may establish by regulation a schedule of co-payments related to income to be paid by a recipient for services provided by the Division of Health Services for the operation of: (a) Migrant Health Clinics and (b) Developmental Evaluation Centers.

(15) The Secretary of the Department of Human Resources is hereby authorized and empowered to establish by regulation a charge to be paid by veterinarians or local health departments for rabies tags, links, and rivets. Such charge shall not exceed the actual cost of the tags, links, and rivets. For purposes of this subsection, actual cost shall mean the actual purpose price to the Department for such items.

(16) The Secretary of Human Resources may establish by regulation rates and fees for the sale of: (a) specimen containers; and (b) vaccines and other biologicals. The rates and fees shall not exceed the actual cost of such items. For purposes of this subsection, actual cost shall mean the actual purchase price for the Department for such items."

Sec. 5. G.S. 130-200 is amended by adding a new sentence to the end to read:

"The Secretary is authorized to establish by regulation a fee, not to exceed three hundred dollars ($300.00), to cover the cost of investigations, autopsies or pathological studies."

Sec. 6. G.S. 143-117 and G.S. 143-118 are amended and rewritten to read:

"§143-117. Institutions included.—All persons admitted to institutions administered by the Department of Human Resources which are now or hereafter may be authorized, are hereby required to pay the actual cost of their care, treatment, training and maintenance at such institutions.

§143-118. Secretary of Human Resources to fix cost and charges.—(a) The Secretary of Human Resources shall determine and fix the actual cost of such
training, treatment, care and maintenance, to be paid for by or for each patient, and the Secretary shall fix such cost so as to include all the cost of such training, treatment, care and maintenance at such institutions, for each respective patient, and the sum, when so fixed, shall be the actual cost. The Secretary, in determining and fixing the actual cost of such training, treatment, care and maintenance is given full and final authority to fix a general rate of charge, to be paid by patients able to pay the rate of charge, or in cases where indigent patients are later found to be nonindigent, then such cost for past training, treatment, care and maintenance of such patients shall be paid in one or more payments based on the rates of cost in effect for the period or periods of time during which such patients have been confined in the institutions.

(b) The past acts of the boards of directors in fixing a monthly rate to be paid by nonindigent inmates for their care and maintenance in such institutions are hereby in every respect ratified and validated, and on all claims and causes of actions for such purpose now pending and are unsettled, or which hereafter may be made or begun for the payment of said past indebtedness for training, treatment, care and maintenance, the rates so fixed by the board of directors or Secretary shall prevail and said collections shall be made in accordance therewith.

(c) In any action by any of said State's charitable institutions for the recovery of the cost of the training, treatment, care and maintenance of any inmate, pupil or patient now pending or which may hereafter be instituted, a verified and itemized statement of the account showing the period of time during which the nonindigent inmate, pupil or patient was confined to the institution, the monthly rate of charge is fixed by the board of directors of such institution for the period of time that the inmate, pupil or patient confined therein, the total amount claimed to be due thereon as predicated upon the rate of charge, and the proper credits for any payments which may have been made on the account, shall be filed with the complaint and shall constitute a prima facie case. The State institution shall be entitled to a judgment thereon in the absence of allegation and proof on the part of the guardian, trustee, administrator, executor, or other fiduciary of the inmate, pupil or patient that the verified and itemized statement of the superintendent or bookkeeper of the institution is not correct because of:

(1) an error in the calculation of the amount due as predicated upon said monthly rate of charge fixed by the board of directors or Secretary;

(2) an error as to the period of time during which the inmate, pupil or patient was confined in the State institution; or

(3) an error in not properly crediting the account with any cash payment, or payments, which may have been made thereon."

Sec. 7. G.S. 143B-153(3) is amended by repealing subsection (3)(e) and is further amended by adding a new subdivision (8) to read: "(8) The Commission may establish by regulation rates or fees for:

a. a fee schedule for the payment of the costs of necessary day care for minor children of needy families;

b. a fee schedule for the payment by recipients for services which are established in accordance with Title XX of the Social Security Act and implementing regulations; and

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c. the payment of an administrative fee not to exceed two hundred dollars ($200.00) to be paid by public or nonprofit agencies which employ students under the Plan Assuring College Education (PACE) program."

Sec. 8. G.S. 143-546(a) is amended by adding a new subsection (5) to read:

"(5) To establish by regulation a schedule of rates and fees to be paid by clients and other third party purchasers for those services established under federal law and regulations for rates or fees which are authorized by federal law."

Sec. 9. G.S. 130-166.55(7) is rewritten to read as follows:

"(7) Establish and collect fees to recover the costs of laboratory analyses performed for compliance with this act, said fees not to exceed two hundred dollars ($200.00) for each analysis."

Sec. 10. Severability. If any provision of this act or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Sec. 11. G.S. 153A-149(b)(8) and G.S. 153A-149(c)(30) are amended by deleting the word "Chapters 108" and inserting in lieu thereof "Chapters 108A".

Sec. 12. G.S. 153A-255 is amended by deleting the word "Chapter 108", and inserting in lieu thereof "Chapter 108A".

Sec. 13. This act shall become effective upon ratification, provided that the fee schedule set forth in G.S. 130-166.55(7), as it appears in the Supplement to Volume 3B of the General Statutes of North Carolina, with the addition of a fee for the analysis for total trihalomethanes of sixty dollars ($60.00), shall remain effective until the Secretary establishes fees for the analyses. Sections 11 and 12 of this act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 12th day of June, 1981.

S. B. 393

CHAPTER 563

AN ACT TO REWRITE CHAPTER 898, SESSION LAWS OF 1979, RELATING TO MORE EFFECTIVE SERVICES TO CHILDREN AND FAMILIES IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. Chapter 898, Session Laws of 1979, is rewritten to read as follows:

"Section 1. Article 9 of Chapter 143B of the General Statutes is amended by adding the following new Part:


"§ 143B-426.2. Declaration of findings and policy.—The State of North Carolina is committed to a continuing effort to afford greater opportunities to its children and to burden them with fewer disabilities. The General Assembly finds that the family is the primary custodian of children and the primary provider for the basic needs of children; that some families at times cannot meet all the essential needs of their children and may need governmental assistance, particularly in the areas of health care and education; and that the wide range of programs and agencies serving the needs of children requires that
steps be taken to coordinate the efforts of those agencies and under those programs. The General Assembly declares, therefore, that it is the policy of the State to promote and encourage programs and practices to support and strengthen families in North Carolina; to give priority to health care programs, especially preventive services for small children, and ambulatory care services, which are particularly appropriate to children; to encourage every child to acquire the basic skills necessary to achieve a meaningful life; and to provide a structure through which child-centered programs may be coordinated for maximum effectiveness.

"§ 143B-426.3. Child and Family Services Interagency Committee; creation; membership; structure.—(a) The Child and Family Services Interagency Committee is created. The committee consists of the Governor of North Carolina, the Superintendent of Public Instruction, the Secretary of Human Resources, the Secretary of Cultural Resources, the Associate Dean and Director of the Agricultural Extension Service of North Carolina State University, the Director of the Office of Citizen Affairs, the Director of the Governor's Advocacy Council on Children and Youth, the Director of the State Goals and Policy Board, one member of the North Carolina House of Representatives appointed by the Speaker of the House, and one member of the North Carolina Senate appointed by the President of the Senate. Legislative members are appointed for two-year terms, beginning February 1 of each odd-numbered year.

(b) The Governor is chairman of the committee. The vice-chairman is designated by the Governor from among the membership of the committee, after consultation with the members of the committee.

(c) The committee meets regularly at such times and in such places as the Governor deems necessary to accomplish its functions. The Governor may call special meetings at any time and place.

(d) The Governor shall organize the work of the committee, and shall prepare rules of procedure governing the operation of the committee.

(e) No member of the committee shall receive compensation for services on the committee, except that members of the General Assembly shall receive travel and subsistence at the rates set out in G.S. 120-3.1, for services on the committee when the General Assembly is not in session.

"§ 143B-426.4. Child and Family Services Interagency Committee; powers and duties.—The Child and Family Services Interagency Committee has the following powers and duties:

(1) to improve communication and coordination among State, regional, and local programs, agencies and activities relating to family and children policy;

(2) to communicate with federal agencies dealing with family and children services and policy, and to work toward a coordinated effort with those agencies;

(3) to identify areas of duplication of services to families and children and to identify ways of eliminating the duplication;

(4) to identify gaps in existing services to families and children and to make recommendations to appropriate State and county agencies toward formulating new programs and changes in existing programs to effectuate the policies set out in this Part:
(5) to receive and review statistics, research findings and recommendations from citizens and professionals, and to develop procedures and guidelines that will improve services to families and children;

(6) to make recommendations to appropriate State and county agencies toward modifying policy, programs, procedures and regulations that serve as hindrance to families and children; and

(7) to perform other duties assigned by the governor for the purpose of effectuating the policies set out in this Part.

"§ 143B-426.5. County Child and Family Services Interagency Committees authorized; purpose.—Boards of county commissioners may create county Child and Family Services Interagency Committees to coordinate the work of the various existing agencies which offer services in their respective counties to children and their families. Any board of county commissioners may designate an existing interagency council as the Child and Family Services Interagency Committee for that county. County Child and Family Services Interagency Committees shall be committed to developing literate and healthy children, and shall bring together all existing child and family service resources to help the family and the community ensure good development, health care and education for each child in his early formative years.

"§ 143B-426.6. County Child and Family Services Interagency Committees; membership; organization; procedures.—(a) County Child and Family Services Interagency Committees shall include a representative of the public schools; social services; mental health; developmental evaluation centers; health departments; county, municipal or regional libraries; agricultural extension offices; and any other child-serving agencies designated by the board of county commissioners.

(b) The board of county commissioners may designate the county manager or any other person as chairman of the county committee. Members of the county committee shall elect one of their number as vice-chairman of the committee.

(c) Each county committee shall adopt its own rules of procedure, and shall meet regularly at such times and places as it deems necessary. Special meetings of the committee may be called by the chairman. Each county committee may create working groups needed to assist the committee. The chairman shall have general administrative authority to organize the work of the committee.

"§ 143B-426.7. County Child and Family Services Interagency Committees; powers and duties.—County Child and Family Services Interagency Committees have the following powers and duties:

(1) to improve communication and coordination among agency programs for children and their families;

(2) to assess the health and educational status of the county’s children;

(3) to review the county’s spending for children and to search for ways to eliminate service duplication;

(4) to plan and organize county conferences of citizens and professionals in an effort to assess and improve the health and educational status of children;

(5) to plan and promote coordinated agency efforts to improve conditions such as the infant mortality rate, the nutritional status, and the educational attainment of the county’s children;

(6) to recommend to the county commissioners such cooperative efforts and modifications of policy, plans and programs as the council considers necessary and desirable;
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(7) upon approval by the county commissioners, to recommend to the State Child and Family Services Interagency Committee such changes in legislation, policy and administrative regulation as would serve to facilitate the effective delivery of services to children and their families;

(8) to continuously educate and inform the general public regarding matters affecting children and their families; and

(9) to perform such other powers, duties and functions as the board of county commissioners may prescribe.

"§143B-426.7A. ‘Blue Book’ not incorporated into law.—Nothing in this Part is intended to incorporate into the law the document entitled ‘A Child Health Plan for Raising a New Generation’ produced by the Joint Child Health Planning Task Force as a part of the observance of the International Year of the Child 1979 or any similar health plan. There is no intention to interfere with the authority of the parent except in judicially established instances of child abuse or neglect."

Sec. 2. Funding. The provisions of this act shall be implemented without the appropriation of funds by the General Assembly.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of June, 1981.

S. B. 405  CHAPTER 564

AN ACT TO REPEAL G.S. 163-178, WHICH REQUIRES CLERKS OF COURT TO REPORT ELECTION RESULTS TO THE SECRETARY OF STATE, AND TO AMEND G.S. 101-8, WHICH REQUIRES CLERKS OF COURT TO REPORT THE RESUMPTION OF NAME BY WIDOWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-178 is repealed.

Sec. 2. G.S. 101-8, as the same appears in the 1979 Replacement Volume 2D of the General Statutes of North Carolina, is amended by placing a period after the words “Administrative Office of the Courts” in the last sentence, and deleting the remainder of the said last sentence.

Sec. 3. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 12th day of June, 1981.

S. B. 439  CHAPTER 565

AN ACT TO PERMIT FAMILY CARE HOMES FOR HANDICAPPED PEOPLE IN ALL RESIDENTIAL AND OTHER ZONING DISTRICTS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 168 of the General Statutes is amended by adding the following new Article:

"ARTICLE 3.

"Family Care Homes.

"§168-20. Public policy.—The General Assembly has declared in Article 1 of this Chapter that it is the public policy of this State to provide handicapped persons with the opportunity to live in a normal residential environment.

"§168-21. Definitions.—As used in this Article:
(1) 'Handicapped person' means a person with a temporary or permanent physical, emotional, or mental disability including but not limited to mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances and orthopedic impairments but not including mentally ill persons who are dangerous to others as defined in G.S. 122-58.2(1)b.

(2) ‘Family care home’ means a home with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than six resident handicapped persons.

"§ 168-22. Zoning; family care home.—A family care home shall be deemed a residential use of property for zoning purposes and shall be a permissible use in all residential districts of all political subdivisions. No political subdivision may require that a family care home, its owner, or operator obtain, because of the use, a conditional use permit, special use permit, special exception or variance from any such zoning ordinance or plan; provided, however, that a political subdivision may prohibit a family care home from being located within a one-half mile radius of an existing family care home.

"§ 168-23. Certain private agreements void.—Any restriction, reservation, condition, exception, or covenant in any subdivision plan, deed, or other instrument of or pertaining to the transfer, sale, lease, or use of property which would permit residential use of property but prohibit the use of such property as a family care home shall, to the extent of such prohibition, be void as against public policy and shall be given no legal or equitable force or effect."

Sec. 2. All laws and parts thereof, either public or local, which are in conflict with this act are repealed to the extent of the conflict.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of June, 1981.

S. B. 516  CHAPTER 566
AN ACT TO CLARIFY LANDLORD EVICTION REMEDIES IN RESIDENTIAL TENANCIES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 42 is amended by adding a new Article 2A. Ejectment of Residential Tenants, to read as follows:

"Article 2A.

"Ejectment of Residential Tenants.

"§ 42-25.1. Manner of ejectment of residential tenants.—It is the public policy of the State of North Carolina, in order to maintain the public peace, that a residential tenant shall be evicted, dispossessed or otherwise constructively or actually removed from his dwelling unit only in accordance with the procedure prescribed in Article 3 of this Chapter.

"§ 42-25.2. Distress and distrain not permitted.—It is the public policy of the State of North Carolina that distress and distrain are prohibited and that landlords of residential rental property shall have security interests or liens on the personal property of their residential tenants only in accordance with G.S. 44A-2(e).

"§ 42-25.3. Contrary lease provisions.—Any lease or contract provision contrary to this Article shall be void as against public policy.
§ 42-25.4. Remedies.—(a) If any lessor, landlord, or agent removes or attempts to remove a tenant from a dwelling unit in any manner contrary to this Article, the tenant shall be entitled to recover possession or to terminate his lease and the lessor, landlord or agent shall be liable to the tenant for damages caused by the tenant’s removal or attempted removal. Damages in any action brought by a tenant under this Article shall be limited to actual damages as in an action for trespass or conversion and shall not include punitive damages, treble damages or damages for emotional distress.

(b) If any lessor, landlord, or agent seizes possession of or interferes with a tenant’s access to a tenant’s or household member’s personal property in any manner not in accordance with G.S. 44A-2(e), the tenant or household member shall be entitled to recover possession of his personal property or compensation for the value of the personal property, and, in any action brought by a tenant or household member under this Article, the landlord shall be liable to the tenant or household member for actual damages, but not including punitive damages, treble damages or damages for emotional distress.

(c) The remedies created by this Section are supplementary to all existing common law and statutory rights and remedies.”

Sec. 2. G.S. 44A-2(e) is amended by deleting the first sentence and substituting therefor the following:

“Any lessor of a house, room, apartment, office, store or other demised premises has a lien on all furniture, household furnishings, trade fixtures, equipment and other personal property to which the tenant has legal title and which remains on the demised premises if (1) the tenant has vacated the premises for 21 or more days after the paid rental period has expired, and (2) the lessor has a lawful claim for damages against the tenant. If the tenant has vacated the premises for 21 or more days after the expiration of the paid rental period, or if the lessor has received a judgment for possession of the premises which is executable and the tenant has vacated the premises, then all property remaining on the premises may be removed and placed in storage. If the total value of all property remaining on the premises is less than one hundred dollars ($100.00), then it shall be deemed abandoned five days after the tenant has vacated the premises, and the lessor may remove it and may donate it to any charitable institution or organization. Provided, the lessor shall not have a lien if there is an agreement between the lessor or his agent and the tenant that the lessor shall not have a lien.”

Sec. 3. This act shall become effective on October 1, 1981.

In the General Assembly read three times and ratified, this the 12th day of June, 1981.
The General Assembly of North Carolina enacts:

Section 1. G.S. 115-163 and G.S. 115C-366(a) as enacted by Chapter 423, Session Laws of 1981 are amended by deleting from the first sentence the word “residing” and by substituting therefor the word “domiciled”; by deleting from the second proviso the word “residing” and by substituting therefor the word “domiciled”; by deleting from the second proviso the phrase “either with or without the payment of tuition”; by deleting from the third proviso the phrase “either with or without the payment of tuition”; by deleting from the second proviso the phrase “reside” and by substituting therefor the words “are domiciled”; and by deleting from subparagraph (2) the word “residence” and by substituting therefor the word “domicile”.

Sec. 2. Article 19 of Chapter 115 of the General Statutes is amended by adding a new subsection 115-163.1 as follows:

"§ 115-163.1. Local boards of education; tuition charges.—(a) Local boards of education shall charge tuition to the following persons:

(1) Persons of school age who are not domiciliaries of the State.

(2) Persons of school age who are domiciliaries of the State but who do not reside within the school administrative unit or district.

(3) Persons of school age who reside on a military or naval reservation located within the State and who are not domiciliaries of the State. Provided, however, that no person of school age residing on a military or naval reservation located within the State and who attends the public schools within the State may be charged tuition if federal funds designed to compensate for the impact on public schools of military dependent persons of school age are funded by the federal government at not less than fifty percent (50%) of the total per capita cost of education in the State, exclusive of capital outlay and debt service, for elementary or secondary pupils, as the case may be, of such school administrative unit.

(b) If the tuition charge for a student exceeds the amount of per capita local funding, that excess shall be remitted to the State Board of Education."

Sec. 3. The tuition required in Section 2 shall be determined by local boards of education each August 1 prior to the beginning of a new school year.

Sec. 4. G.S. 115-163.1 as enacted by Section 2 of this act is recodified effective July 1, 1981, as G.S. 115C-366.1.

Sec. 5. This act is effective upon ratification except that Section 4 shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 12th day of June, 1981.
CHAPTER 568

AN ACT TO ALLOW CABARRUS COUNTY TO NAME PRIVATE ROADS IN UNINCORPORATED AREAS, AND SIMPLIFY THE PROCESS OF NAMING ROADS IN THAT COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 3, Chapter 1319, Session Laws of 1979 (Second Session 1980) is amended by adding the following new sentence: "This act also applies to Cabarrus County."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of June, 1981.

CHAPTER 569

AN ACT TO PROVIDE A LIMIT ON LIABILITY UNDER THE NORTH CAROLINA LIFE AND ACCIDENT AND HEALTH INSURANCE GUARANTY ASSOCIATION ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-155.72(10) is amended by changing the period to a comma and by adding:

"but the aggregate liability of the Association shall not exceed three hundred thousand dollars ($300,000) for all benefits, including cash values, with respect to any one individual. The liability of the Association with respect to coverage under any health or disability insurance policy shall not extend beyond the next policy anniversary date after the date on which the insurer becomes an impaired insurer; provided, however, in no event shall the Association be liable for a period of less than 6 months after the date that the insurer becomes an impaired insurer. This 6-month time limitation shall not affect the Association’s liability to repay unearned premiums or the Association’s liability under the policy provisions with respect to any valid claim occurring prior to the expiration of such time limitation."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of June, 1981.

CHAPTER 570

AN ACT TO ALLOW THE STOKES COUNTY SCHOOL ADMINISTRATIVE UNIT TO CONVEY A GYM AND TRACT OF LAND TO THE SANDY RIDGE ACTION CENTER AT PRIVATE SALE.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of G.S. 115-126 or G.S. 115C-518, the Stokes County Board of Education is hereby authorized to convey by good and sufficient instrument its right, title and interest in and to the old gym building at the Sandy Ridge School at private sale to the Sandy Ridge Action Center.

Sec. 2. Notwithstanding the provisions of G.S. 115-126 or G.S. 115C-518, the Stokes County Board of Education is authorized to convey to the Sandy Ridge Action Center at private sale its right, title, and interest to a tract of land.
not to exceed six acres from the tract defined as the total property described below, and an easement for access to such site from Amostown Road:

“(1) In Stokes County, North Carolina, beginning on the South side of the public road that leads from Dillard by Sandy Ridge towards the Virginia Line in R. B. Hutchison’s line, thence east starting out on his line, but leaving same 416 feet to a rock thence North 240 feet to a rock, then West 400 feet to a rock on the East side of the above named road, thence South with said road as it meanders 308 feet to the beginning, containing about two and five eighths acres; and

(2) Beginning at an iron stake in the south line of the Sandy Ridge School lot, John A. Dodson’s northeast corner, and runs along said School line S. 71 deg. E. 400 feet to a stake, the southeast corner of said School lot; thence along the eastern line of said School lot N. 24 deg. 45 min. E. 505 feet to a stake; thence a new line with Mrs. Claudia B. Shelton S. 68 deg. E. 424 feet to a stake in Moir Amos west line; thence with said Moir Amos line S. 2 deg. 20 min. W. 680 feet to a stake, his southwest corner with Clint Hodge; thence with Clint Hodge’s line S. 62 deg. 10 min. W. 486.4 feet to a stone and pointers, his corner in Fred Vernon’s line; thence with said Fred Vernon’s line, N. 45 deg. 30 min. W. 836 feet to a stake in John A. Dodson’s line; thence with said John A. Dodson’s line N. 28 deg. 15 min. E. 171 feet to an iron stake, the point of beginning, and containing 14.36 acres.”

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of June, 1981.

S. B. 602

CHAPTER 571

AN ACT TO ALLOW THE DEPARTMENT OF CORRECTION TO GIVE CREDIT FOR GOOD CONDUCT ALLOWANCES TOWARD THE DATE ON WHICH THEY WILL BECOME ELIGIBLE FOR PAROLE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-1355(c) is amended by rewriting the first sentence to read:

“The Department of Correction may give credit toward service of the maximum term and any minimum term of imprisonment and toward eligibility for parole for allowances of time as provided in rules and regulations made under G.S. 148-11 and 148-13.”

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of June, 1981.
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H. B. 290  CHAPTER 572

AN ACT TO AMEND CHAPTER 90, ARTICLE 22 OF THE GENERAL STATUTES RELATING TO SPEECH AND LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-294(b) is amended on line 5 by deleting the citation "G.S.90-296" and substituting therefor "G.S. 90-297".

Sec. 2. G.S. 90-294(f) is amended on line 3 by deleting the words "in industrial operations" and on line 4 by deleting the word "company".

Sec. 3. G.S. 90-296(a) is amended by deleting the first word in line 2 and substituting therefor the word "satisfied" and by deleting the first word in line 3 and substituting therefor the word "before".

Sec. 4. G.S. 90-301 is amended on line 4 by deleting the reference to "Chapter 150" and substituting therefor "Chapter 150A".

Sec. 5. G.S. 90-303(a) is amended on line 2 by deleting the word "five" and substituting therefor the word "seven". G.S. 90-303(a) is further amended by adding at the end the following: "Two members shall be appointed by the Governor to represent the interest of the public at large. These two members shall be neither licensed speech and language pathologists nor audiologists. These members shall be appointed not later than July 1, 1981; one shall be initially appointed for a term of two years; the other shall be appointed for a term of three years. Thereafter all public members shall serve three-year terms."

Sec. 6. G.S. 90-303(c) is amended by deleting the last sentence thereof and substituting the following: "All board members serving on June 30, 1981, shall be eligible to complete their respective terms. No member appointed to a term on or after July 1, 1981, shall serve more than two complete consecutive three-year terms."

Sec. 7. G.S. 90-304 is amended by inserting on line 1 after the symbol "—" and before the word "The" the symbol "(a)".

G.S. 90-304 is further amended by adding at the end a new subsection to read as follows: "(b) The board shall not adopt or enforce any rule or regulation which prohibits advertising except for false or misleading advertising."

Sec. 8. G.S. 143-34.13 is amended by deleting lines 3 and 4 of the section which read as follows:

"Chapter 90, Article 22, entitled 'Licensure Act for Speech and Language Pathologists and Audiologists'."

Sec. 9. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of June, 1981.
AN ACT TO AMEND CHAPTER 90, ARTICLE 1 OF THE GENERAL STATUTES RELATING TO THE PRACTICE OF MEDICINE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-1 is amended by adding a new sentence to the end thereof to read as follows:

“The name of the society is now the North Carolina Medical Society.”

Sec. 2. G.S. 90-2 is rewritten to read as follows:

“§ 90-2. Board of Examiners.—(a) In order to properly regulate the practice of medicine and surgery, there is established a Board of Medical Examiners of the State of North Carolina. The board shall consist of eight members. Seven of the members shall be duly licensed physicians elected and nominated to the Governor by the North Carolina Medical Society. The other member shall be a person chosen by the Governor to represent the public at large. The public member shall not be a health care provider nor the spouse of a health care provider. For purposes of board membership, ‘health care provider’ means any licensed health care professional and any agent or employee of any health care institution, health care insurer, health care professional school, or a member of any allied health profession. For purposes of this section, a person enrolled in a program to prepare him to be a licensed health care professional or an allied health professional shall be deemed a health care provider. For purposes of this section, any person with significant financial interest in a health service or profession is not a public member.

(b) No member appointed to the board on or after November 1, 1981, shall serve more than two complete consecutive three-year terms, except that each member shall serve until his successor is chosen and qualifies.

(c) In order to establish regularly overlapping terms, the terms of office of the members currently serving on the board shall expire as follows: two on October 31, 1982; two on October 31, 1984; three on October 31, 1986. Terms of board members shall expire in direct relation to their date of appointment by the society; the terms of the two members first appointed shall expire in 1982, and the terms of the three members last appointed shall expire in 1986. No initial physician member of the board may serve another term until at least three years from the date of expiration of his current term.

The Governor shall appoint the public member not later than October 31, 1981.

(d) Any initial or regular member of the board may be removed from office by the Governor for good cause shown. Any vacancy in the initial or regular physician membership of the board shall be filled for the period of the unexpired term by the Governor from a list of physicians submitted by the North Carolina Medical Society Executive Council. Any vacancy in the public membership of the board shall be filled by the Governor for the unexpired term.”

Sec. 3. G.S. 90-3 is rewritten to read as follows:

“§ 90-3. Medical Society nominates board.—The Governor shall appoint as physician members of the board physicians elected and nominated by the North Carolina Medical Society.”
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Sec. 4. G.S. 90-4 is rewritten to read as follows:
"§ 90-4. Board elects officers; quorum.—The Board of Medical Examiners is authorized to elect all officers and adopt all bylaws as may be necessary. A majority of the membership of the board shall constitute a quorum for the transaction of business."

Sec. 5. G.S. 90-5 is amended on line 1 by deleting the word "may" and substituting therefor the word "shall."

Sec. 6. The third paragraph of G.S. 90-9 is amended by rewriting the second line thereof to read as follows:
"Board, and if the applicant satisfies the board that he is of good moral character and that he has successfully".

Sec. 7. G.S. 90-11 is rewritten to read as follows:
"§ 90-11. Qualifications of applicant for license.—Every applicant for a license to practice medicine or for approval to perform medical acts in the State shall satisfy the Board of Medical Examiners that such applicant is of good moral character and meets the other qualifications for the issuance of such a license or for such approval before any such license or approval is granted by the board to such applicant."

Sec. 8. G.S. 90-12 is amended by rewriting lines 3 and 4 to read as follows:
"advisable, make such modifications of the requirements of G.S. 90-9, 90-10, and 90-11 as".

Sec. 9. G.S. 90-14 is amended on line 1 by designating all the currently existing language as subsection (a).

G.S. 90-14 is further amended in the last paragraph by rewriting line 2 to read as follows:
"to an applicant or revoke a license issued to him, may suspend such a license for a."

Sec. 10. A new subsection is added to the end of G.S. 90-14 to read as follows:
"(b) The board shall refer to the State Medical Society Physician Health and Effectiveness Committee all physicians whose health and effectiveness have been significantly impaired by alcohol, drug addiction or mental illness."

Sec. 11. G.S. 90-14.4 is amended on line 1 by deleting the word "given" and the comma preceding that word. G.S. 90-14.4 is further amended on line 2 by inserting the word "within" between the word "Board" and the number "20".

Sec. 12. G.S. 90-14.8 is amended on lines 1 and 2 of the second paragraph by deleting the phrase "either by an applicant or a licensee."

Sec. 13. G.S. 90-14.12 is amended by adding a new sentence at the end thereof to read as follows:
"Actions under this section shall be commenced in the judicial district in which the respondent resides or has his principal place of business or in which the alleged acts occurred."

Sec. 14. Article 1, Chapter 90 of the General Statutes is amended by adding a new section to read as follows:
"§ 90-14.13. Reports of disciplinary action by health care institutions; immunity from liability.—The chief administrative officer of every licensed hospital or other health care institution in the State shall, after consultation with the chief of staff of such institution, report to the board any revocation,
suspension, or limitation of a physician's privileges to practice in that institution. Each such institution shall also report to the board resignations from practice in that institution by persons licensed under this Article. The board shall report all violations of this subsection known to it to the licensing agency for the institution involved.

Any person making a report required by this section shall be immune from any criminal prosecution or civil liability resulting therefrom unless such person knew the report was false or acted in reckless disregard of whether the report was false."

Sec. 15. G.S. 90-15 is amended on line 12 by inserting between the word "training" and the comma following that word the phrase "is granted".

Sec. 16. G.S. 90-21 is amended on lines 1 and 2 and on line 12 by deleting the words "to 90-20".

Sec. 17. G.S. 143-34.12 is amended by deleting line 3 which reads as follows:

"Chapter 90, Article 1, entitled 'Practice of Medicine'".

Sec. 18. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of June, 1981.

H. B. 1044 CHAPTER 574
AN ACT TO AMEND G.S. 20-162 TO CLARIFY PROVISIONS RELATING TO PARKING IN FIRE LANES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-162(b) is hereby amended by adding a new sentence after the second sentence to read as follows:

"Provided, however, persons loading or unloading supplies or merchandise may park temporarily in a fire lane located in a shopping center or mall parking lot as long as the vehicle is not left unattended."

Sec. 2. This act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 15th day of June, 1981.

H. B. 1115 CHAPTER 575
AN ACT TO AMEND G.S. 113-272.5 RELATING TO CAPTIVITY LICENSES ON COUGARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-272.5(e) is amended by adding a new subdivision to read:

"(4) An individual who holds a cougar without caging under conditions simulating a natural habitat, the development of which is in accord with plans and specifications developed by the holder and approved by the Wildlife Resources Commission."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of June, 1981.
AN ACT TO AUTHORIZE THE ATTORNEY GENERAL TO PAY MEDICAL BILLS FOR PUPILS TRANSPORTED TO AND FROM SCHOOL BY SCHOOL BUSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-257, 115C-258 and 115C-259, as they appear in Chapter 423 of the 1981 Session Laws, are rewritten to read as follows:

"§ 115C-257. **Attorney General to pay claims.**—The Attorney General is hereby authorized to pay reasonable medical expenses, not to exceed six hundred dollars ($600.00), incurred within one year from the date of accident to or for each pupil who sustains bodily injury or death caused by accident, while boarding, riding on, or alighting from a school bus operated by any local school administrative unit.

"§ 115C-258. **Provisions regarding payment.**—The claims authorized herein may be paid, regardless of whether the injury received by the pupil was due to negligence on the part of the school bus driver, the injured pupil, or any other person. To the extent of payments made under this Article, the Attorney General shall be subrogated to the right of the pupil against any third party legally responsible for the injury. Further, any amounts paid shall constitute a credit against any obligation arising under the provisions of the Tort Claims Act.

"§ 115C-259. **Claims must be filed within one year.**—The right to payment as authorized herein shall be forever barred unless a claim be filed with the Attorney General within one year after the accident."

Sec. 2. G.S. 115C-260 and G.S. 115C-261 as they appear in Chapter 423 of the 1981 Session Laws are repealed.

Sec. 3. The provisions of this act are void and of no effect unless the Current Operations Appropriations Act for the 1981-83 biennium reflects the transfer of thirty-eight thousand dollars ($38,000) for each of the fiscal years 1981-82 and 1982-83 from the budget of the Department of Public Education to the budget of the Department of Justice.

Sec. 4. This act shall become effective July 1, 1981, and shall apply to all claims presented on or after that date.

In the General Assembly read three times and ratified, this the 15th day of June, 1981.
In the General Assembly read three times and ratified, this the 15th day of June, 1981.

S. B. 428  CHAPTER 578

AN ACT TO ANNEX A DESCRIBED AREA TO THE TOWN OF ABERDEEN IN MOORE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The corporate limits of the Town of Aberdeen are hereby declared to include the following described area:

A triangular tract of land contiguous to the previous Aberdeen City limit line on the north, bounded on the northwest by U.S. Highway No. 1 and bounded on the east by Poplar Street, said tract being more particularly described as follows:

BEGINNING at an iron pipe in the east right of way line of U.S. Highway No. 1, said iron pipe being a corner of the corporate limits of the Town of Aberdeen and a corner of a "Hogarty, Frye, & Eastern Management Corporation" tract containing 0.85 acres; running thence from the beginning as the east line of U.S. Highway No. 1 N 29° 42' E 14.90 feet to a concrete monument, the southwest corner of the Quality Oil Co., Inc. 1.82 acre tract; thence continuing as the east line of U.S. Highway No. 1 N 29° 26' E 562.83 feet to a P.K. Nail at the intersection of the east line of U.S. Highway No. 1 with the west line of Poplar Street, the North Corner of the Quality Oil Co. property; thence as the west line of Poplar Street S 2° 22' E 536.29 feet to an iron pipe, the southeast corner of the Quality Oil Company, Inc. Tract; thence S 80° 58' E 11.22 feet to a concrete monument in the right-of-way of Poplar Street; thence S 2° 25' E 44.58 feet to an iron pipe in the right-of-way of Poplar Street; thence S 2° 28' E 44.0 feet to an iron pipe in Poplar Street; thence S 2° 31' E 89.0 feet to a corner in the right-of-way of Poplar Street; thence leaving Poplar Street, to and along the existing corporate limit line of the Town of Aberdeen N 80° 13' W 132.0 feet to a concrete monument, a corner of the corporate limits of the Town of Aberdeen, thence along the corporate limits lines of the Town of Aberdeen, the following calls, N 0° 37' E 158.68 feet to an iron pipe, and N 81° 09' W 199.09 feet to the beginning, containing 2.39 acres more or less.

Sec. 2. Any and all official acts, actions, expenditures and levies of taxes or assessments by the Mayor and Board of Commissioners of the Town of Aberdeen since January 12, 1981, with respect to or affecting the territory and properties described in Section 1 of this act are hereby ratified, validated and confirmed.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of June, 1981.
AN ACT TO REVISE THE CHARTER OF THE TOWN OF LIBERTY.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Liberty in Randolph County is hereby rewritten to read as follows:

"THE CHARTER OF THE TOWN OF LIBERTY."

"Section 1. Incorporation. The Town of Liberty, heretofore incorporated by the General Assembly, shall continue to operate as a body politic and corporate under the name and style of the 'Town of Liberty'.

"Sec. 2. Corporate Boundaries. The corporate boundaries of the Town of Liberty shall be those boundaries established by Chapter 37 of the Public-Local and Private Laws of 1935 as amended by annexations conducted since the effective date of that act.

"Sec. 3. Corporate Powers. The Town of Liberty and its officers and employees shall operate and conduct the business of the town subject to the provisions set forth in Chapter 160A of the North Carolina General Statutes and other 'general law,' except as otherwise provided in the town 'Charter'. (As the terms in quotations are defined in G.S. 160A-1).

"Sec. 4. Mayor and Council. (a) In the Town of Liberty there shall be a Council composed of five members and a mayor elected by the voters of the entire town as herein provided. The mayor shall be elected for a term of two years, and the council members shall be elected for staggered terms of four years.

(b) The municipal elections in Liberty shall be nonpartisan and decided by a simple plurality. No primary elections shall be held. The municipal elections shall be held and conducted pursuant to the applicable provisions of Chapter 163 of the General Statutes, particularly Articles 23 and 24 thereof.

(c) In the municipal elections to be held on Tuesday after the first Monday in November, 1981, and every two years thereafter, the mayor shall be elected for a term of two years. In this election and the municipal elections held every four years thereafter, three council members shall be elected to succeed the council members whose terms expire in 1981. In the municipal elections to be held in November, 1983, and every four years thereafter, two council members shall be elected to succeed the two council members whose terms expire in 1983.

"Sec. 5. Council/Manager Form of Government. (a) The Town of Liberty shall operate under the council/manager form of government in accordance with Part 2 of Article 7 of Chapter 160A of the North Carolina General Statutes and any charter provisions not in conflict therewith.

(b) The manager shall be appointed to serve at the pleasure of the Council.

"Sec. 6. Attorney, Clerk, and Tax Collector. (a) The Council shall appoint a town attorney to serve at its pleasure and to be its legal advisor.

(b) The town clerk shall be appointed by the manager.

(c) As provided in G.S. 105-349, the Council shall either appoint a tax collector or confer the duties of tax collector upon a qualified employee appointed by the manager.

"Sec. 7. Contracts and Documents. (a) Unless otherwise provided by law, no contract shall be binding upon the Town of Liberty unless it is either:

(1) Made by or pursuant to an ordinance or resolution that authorizes the town to enter into a contract for an identified purpose;"
(2) Reduced to writing and approved by the Council; or
(3) Authorized by ordinance or resolution referring generally to a class of contracts (which classification may be on the basis of amount, subject matter, or other basis) that may be executed by designated officials on behalf of the town.

(b) Unless otherwise provided by ordinance or resolution or by general law, no contract or deed shall be binding upon the town unless signed by the town manager and attested by the town clerk.

(c) Unless otherwise provided by ordinance or resolution or by general law, the manager or his designee shall have authority to sign on behalf of the town all licenses or permits issued by the town or other official documents except contracts and deeds.

"Sec. 8. Leasing of Town Owned Property. Any property owned by the Town of Liberty, whether originally acquired for governmental or other purposes, may be leased by the town council for a term not to exceed 10 years if, in the opinion of the Council, the property will not be needed by the city during the period of the lease. A lease may be made by the Council after notice has been given in the manner and for the length of time prescribed by the Council. In any case where the lessee enters into a binding obligation to erect, upon property owned by the city, improvements to cost not less than one hundred thousand dollars ($100,000), the Council may rent or lease that property for a term not to exceed 40 years upon such terms as in the judgement of the Council will promote the best interests of the town. Any property or portion thereof owned by the town may be reasonably improved and renovated by the town either at its own expense or by mutual joint arrangement with other parties.

"Sec. 9. Assessments for Street Improvements. (a) In addition to the authority that may now or hereafter be granted by general law to the Town of Liberty for making street improvements and providing for the assessment of costs thereof against abutting property owners, the town council is authorized to make street improvements and assess the cost thereof in accordance with the requirements of this section.

(b) Whenever a majority of the owners owning a majority of the lineal footage of property abutting a street which is not more than six blocks in length or a maximum total distance of 3,000 linear feet, are unwilling or fail to petition for a needed street improvement, the town council may order such improvement without petition, and may assess the total cost, or any part thereof, less the cost at street intersections, against the abutting property owners at an equal rate per front foot; provided, no street improvement without petition shall be ordered or undertaken and the cost thereof assessed to abutting property owners as authorized herein unless and until the town council finds as a fact:

(1) that the street improvement project does not exceed six blocks in length or a maximum total distance of 3,000 linear feet; and
(2) that such street or part thereof is unsafe for vehicular traffic and it is in the best public interest to make such improvement; or
(3) that it is in the best public interest and for the welfare of the citizens of the town to connect two streets already paved.

(c) Street improvements authorized by this section shall include grading, regrading, surfacing or resurfacing, widening, and the construction or reconstruction of curbs, gutters and street drainage facilities.
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(d) In ordering street improvements and levying assessments for the cost thereof under the authority granted by this section, the town council shall pass and publish a resolution in substantial compliances with G.S. 160A-223, levy the assessments and prepare an assessment roll in compliance with G.S. 160A-227 and G.S. 160A-228 and advertise and conduct a public hearing in compliance with G.S. 160A-224 and G.S. 160A-225; provided, no improvement authorized herein or the procedure authorized hereby shall be applicable or permit assessments for sidewalk or utility improvements. In addition, the provisions of G.S. 160A-229 through G.S. 160A-238 shall be applicable when the authority authorized by this act is exercised.

(e) The authority granted to the Town of Liberty by this section shall not be exercised by the town council unless four of the five members of the town council who are present and voting at a regular or special meeting cast their vote in favor of the use of this method for improving a street or part of a street in accordance with the requirements of this section."

Sec. 2. Except as provided in this section, all previous local acts dealing with the incorporation and powers of the Town of Liberty and all other laws and clauses of laws in conflict with this act are repealed. Without diminishing the generality of the foregoing, Chapter 972 of the Session Laws of 1973 (2nd Session, 1974), dealing with the establishment of an ABC store in the Town of Liberty, is not repealed.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of June, 1981.

S. B. 542    CHAPTER 580

AN ACT TO PROVIDE FOR SEPARATE DESIGNATION OF LIENHOLDERS IN PROPERTY TAX FORECLOSURE ACTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-374 is amended by:

(a) redesignating present subsection (c) as subsection (c)(1); and

(b) by adding immediately after redesignated subsection (c)(1) a new subsection (c)(2), to read as follows:

"(c)(2) Lienholders separately designated. The word 'lienholder' shall appear immediately after the name of each lienholder (including trustees and beneficiaries in deeds of trust, and holders of judgment liens) whose name appears in the caption of any action instituted under the provisions of this section. Such designation is intended to make clear to the public the capacity of such persons which necessitated their having been made parties to such action. Failure to add such designation to captions shall not constitute grounds for attacking the validity of actions brought under this section, or titles to real property derived from such actions."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of June, 1981.
AN ACT TO PROVIDE FOR SAFE DISTANCES FOR HUNTING MIGRATORY WILD WATERFOWL IN CARTERET AND PAMLICO COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. Except as provided in Section 2 of this act, it is unlawful to take migratory wild waterfowl within 500 yards of another person’s permanently established hunting location.

Sec. 2. This act does not apply to a person taking migratory wild waterfowl:

(1) On property of which he is the landholder or has the landholder’s permission to hunt; or

(2) Within the riparian water area of property of which he is the landholder or has the landholder’s permission to hunt; or

(3) If he comes within 500 yards of another person’s permanently established hunting location only after legally shooting at migratory wild waterfowl and while in active pursuit of a visible, crippled bird.

Sec. 3. The definitions of Subchapter IV of Chapter 113 of the General Statutes apply in interpreting this act. A “permanently established hunting location” is a blind, float, raft, mat, or other buoyant craft or any other location, position, or device that is permanently established for hunting migratory wild waterfowl at a specific site by:

(1) The landholder of the property; or

(2) The riparian landholder, if the site is on or in water and hunting rights in that water are not controlled by someone other than the riparian landholder; or

(3) A person who has written permission to establish the permanent site from a landholder who would qualify under subdivisions (1) or (2).

Sec. 4. Any person who violates this act is guilty of a misdemeanor. A first offense is punishable by a fine of not less than ten dollars ($10.00) nor more than two hundred fifty dollars ($250.00), imprisonment not to exceed five months, or both. A second offense is a misdemeanor punishable by mandatory revocation of the violator’s hunting licenses and cancellation of all his hunting privileges for one year and by fine, imprisonment or both in the discretion of the court. The court must notify the North Carolina Wildlife Resources Commission of such revocation of licenses and cancellation of privileges.

Sec. 5. This act applies only to the counties of Carteret and Pamlico.

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of June, 1981.
H. B. 621  CHAPTER 582
AN ACT TO AUTHORIZE THE CITY OF WILMINGTON TO EXERCISE THE SPECIAL POWERS GRANTED THEREIN WHEN THE MUNICIPAL GOVERNING BODY DESIGNATES ITSELF TO EXERCISE THE POWERS, DUTIES AND RESPONSIBILITIES OF A REDEVELOPMENT COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 1321 of the 1979 Session Laws (2nd Session, 1980) is amended by adding a new section to read:

"Sec. 4.1. In the event the governing body of the City of Wilmington has heretofore abolished or in the future abolishes a redevelopment commission and designates itself to exercise the powers, duties, and responsibilities of such redevelopment commission in accordance with the provisions of G.S. 160A-505(b), the City of Wilmington assumes and may exercise all the powers, duties, and responsibilities otherwise conferred upon the commission by provisions in the general law or this special act. Such powers include, without limitation, the power of eminent domain under G.S. 160A-515 and the extraordinary powers concerning disposition of property contained in this special act."

Sec. 2. This act is effective upon ratification. Sales of property conducted prior to the date of enactment of this special act are hereby validated, and all such sales in the future are declared to be valid for all intents and purposes.

In the General Assembly read three times and ratified, this the 16th day of June, 1981.

H. B. 714  CHAPTER 583
AN ACT TO AMEND G.S. 153A-345(b) RELATING TO THE DUTIES OF THE MECKLENBURG COUNTY ZONING BOARD OF ADJUSTMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-345(b) is amended by adding a new sentence, immediately after the first sentence to read:

"The board of adjustment appointed pursuant to subsection (a) of this section may also hear appeals under the county soil erosion and sedimentation control ordinance and assume other duties and functions in connection with any other ordinance, if so charged by the board of commissioners."

Sec. 2. This act shall apply to Mecklenburg County only.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1981.
CHAPTER 584
AN ACT TO PROVIDE THAT A RECEIVER MAY BE APPOINTED IN A PROCEEDING TO PARTITION CERTAIN JOINTLY OWNED PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 46 of the General Statutes is amended by adding a new section, G.S. 46-3.1, to read:

"§ 46-3.1. Court's authority.—Pending final determination of the proceeding, on application of any of the parties in a proceeding to partition land, the court may make such orders as it considers to be in the best interest of the parties, including but not limited to orders relating to possession, payment of secured debt or other liens on the property, occupancy and payment of rents, and to include the appointment of receivers pursuant to G.S. 1-502(6)."

Sec. 2. G.S. 1-502 is amended by adding a new subdivision, (6), to read:

"(6) In cases involving partition of real property, pursuant to G.S. 46-3.1."

Sec. 3. This act is effective upon ratification and applies to pending proceedings.

In the General Assembly read three times and ratified, this the 16th day of June, 1981.

CHAPTER 585
AN ACT TO AMEND THE WATER USE ACT OF 1967, SO AS TO UPDATE ITS NOTICE, HEARING AND APPEAL PROCEDURES, TO ELIMINATE OUTMODED AND REDUNDANT PROVISIONS, AND FOR RELATED PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. The third and fourth sentences of G.S. 143-215.13(c)(2) are hereby rewritten to read as follows: "This report shall indicate whether the water use problems of the area involve surface waters, ground waters or both and shall identify the department's suggested boundaries for any capacity use area that may be proposed. It shall present such alternatives as the department deems appropriate, including actions by any agency or person which might preclude the need for additional regulation at that time, and measures which might be employed limited to surface water or ground water". G.S. 143-215.13(c)(2) is further amended at line 5 by deleting the words "the Stream Sanitation Law" and by inserting in lieu thereof the words "Part 1 of this Article".

Sec. 2. G.S. 143-215.13(c)(3) is hereby amended by deleting the words "an order" in lines 4 and 5 and by inserting in lieu thereof the words "a rule", and by inserting at line 8 after the word "action" and before the period the words "in accordance with G.S. 150A-12". G.S. 143-215.13(c)(7) is hereby amended by deleting the word "order" in line 12 and by inserting in lieu thereof the word "rule".

Sec. 3. G.S. 143-215.13(c) is further amended by deleting therefrom in their entirety paragraphs (4), (5) and (6) and by renumbering paragraph (7) as paragraph (4).

Sec. 4. G.S. 143-215.13(d) is hereby amended in the following respects:
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(a) By deleting the word "order" wherever it appears therein and by inserting in lieu thereof the word "rule", and by changing the modifying article from "an" to "a" where appropriate.

(b) By deleting the citation "G.S. 143-215.4" in line 2 thereof and by inserting in lieu thereof the words "this subsection".

(c) By deleting at lines 6 and 7 thereof the words and punctuation ", pursuant to hearing."

(d) By rewriting the first sentence of the second paragraph thereof (which begins with the words "The determination") to read as follows: "The determination of the Environmental Management Commission shall be based upon the record of the public hearing and other information considered by the commission in the rule-making proceeding."

(e) By rewriting the third paragraph thereof (which begins with the word "Notice" and ends with the word "hearing") to read as follows: "Notice of the hearing, including a description by geographical or political boundaries of the area affected, shall be given as provided by G.S. 150A-12."

(f) By rewriting the last paragraph of said subsection to read as follows: "Any person who is adversely affected by a rule of the Environmental Management Commission issued pursuant to this subsection shall be entitled to an administrative hearing before the Environmental Management Commission to contest the rule or the application of the rule to such person. Any such hearing shall be held in accordance with the provisions of Article 3 of Chapter 150A of the General Statutes. Any person who is aggrieved by a final decision of the Environmental Management Commission in a contested case shall be entitled to judicial review of such decision in accordance with Article 4 of Chapter 150A of the General Statutes. The Environmental Management Commission in its sole discretion may stay the effectiveness of the rule, in whole or in part, pending an administrative hearing and pending judicial review thereof. In the absence of a stay from the Environmental Management Commission the rule shall be effective pending any administrative hearing and any judicial review thereof."

Sec. 5. G.S. 143-215.14(b) is hereby amended by deleting the words "requirements of subdivisions (4)-(6) of G.S. 143-215.13(c)" and by inserting in lieu thereof the words "provisions of G.S. 150A-12.".

Sec. 6. The last sentence of G.S. 143-215.15(c) is hereby rewritten to read as follows: "Any water user aggrieved by the proposed action shall be entitled to a hearing in accordance with G.S. Chapter 150A, Article 3."

Sec. 7. G.S. 143-215.15(d) is hereby rewritten to read as follows: "(d) The Environmental Management Commission shall give notice of receipt of an application for a permit under this Part to all other holders of permits and applicants for permits under this Part within the same capacity use area, and to all other persons who have requested to be notified of permit applications. Notice of receipt of an application shall be given within 10 days of the receipt of the application by the Environmental Management Commission. The Environmental Management Commission shall also give notice of its proposed action on any permit application under this Part to all permit holders or permit applicants within the same capacity use area at least 18 days prior to the effective date of the proposed action. Notices of receipt of applications for permits and notice of proposed action on permits shall be by first class mail and shall be effective upon depositing the notice, postage prepaid, in the United
States Mail. All notices arising out of contested cases and the service and filing of documents in conjunction with contested case hearings shall follow the procedures of Article 4 of Chapter 150A except as otherwise provided in this Part."

Sec. 8. G.S. 143-215.15(e) is hereby repealed, and subsequent subsections are hereby renumbered accordingly.

Sec. 9. G.S. 143-215.15(f) is hereby rewritten to read as follows:

"(f)(1) The Department of Natural Resources and Community Development shall have the authority to adopt a seal which shall be judicially noticed by the courts of the State. Any document, proceeding, order, decree, special order, rule, regulation, rule of procedure or any other official act or records of the Environmental Management Commission or its minutes may be certified by the secretary of the department under his hand and the seal of the Department of Natural Resources and Community Development and when so certified shall be received in evidence in all actions or proceedings in the courts of the State without further proof of the identity of the same if such records are competent, relevant and material in any such action or proceeding. The Environmental Management Commission shall have the right to take judicial notice of all studies, reports, statistical data or any other official reports or records of the federal government or of any sister state and all such records, reports and data may be placed in evidence by the Environmental Management Commission or by any other person or interested party where material, relevant and competent.

(2) The burden of proof at any hearing under this Part shall be upon the person or the Environmental Management Commission, as the case may be, at whose instance the hearing is being held.

(3) The provisions of General Statutes Chapter 150A, Article 3 shall be applicable in connection with hearings pursuant to G.S. 143-215.15 and G.S. 143-215.16."

Sec. 10. G.S. 143-215.15(g) is hereby rewritten to read as follows: "(g) Any person against whom any final order or decisions have been made, after a hearing under this section or G.S. 143-215.16, may seek judicial review of the order or decision pursuant to the provisions of General Statutes Chapter 150A, Article 3. The provisions of G.S. 150A-49 and G.S. 150A-50 to the contrary notwithstanding, the matter on appeal shall be determined de novo on the transcript and on any new or additional evidence introduced in superior court. The superior court judge hearing the matter shall allow any new or additional evidence on any question of fact as shall be competent under the rules of evidence then applicable to trials in the superior court without a jury."

Sec. 11. G.S. 143-215.17(b)(3) is hereby rewritten to read as follows: "In determining the amount of the penalty the commission shall consider the degree and extent of harm caused by violation, the duration of the violation, the effect on ground or surface water quantity or quality, and whether the violation was intentional or inadvertent."

Sec. 12. G.S. 143-215.19 is rewritten to read as follows:

"§ 143-215.19. Administrative inspection; reports.—(a) When necessary for enforcement of this Part, and when authorized by regulations of the Environmental Management Commission, employees of the commission may inspect any property, public or private, to investigate:

(1) the condition, withdrawal or use of any waters;
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(2) water sources; or
(3) the installation or operation of any well or surface water withdrawal or use facility.

(b) The commission's regulations must state appropriate standards for determining when property may be inspected under subsection (a).

(c) Entry to inspect property may be made without the possessor's consent only if the employee seeking to inspect has a valid administrative inspection warrant issued pursuant to G.S. 15-27.2.

(d) The commission may also require the owner or possessor of any property to file written statements or submit reports under oath concerning the installation or operation of any well or surface water withdrawal or use facility.

(e) The commission shall accompany any request or demand for information under this section with a notice that any trade secrets or confidential information concerning business activities is entitled to confidentiality as provided in this subsection. Upon a contention by any person that records, reports or information or any particular part thereof to which the commission has access under this section, if made public would divulse methods or processes entitled to protection as trade secrets or would divulge confidential information concerning business activities, the commission shall consider the material referred to as confidential, except that it may be made available in a separate file marked 'Confidential Business Information' to employees of the department concerned with carrying out the provisions of this Part for that purpose only. The disclosure or use of such information in any administrative or judicial proceeding shall be governed by the rules of evidence, but the affected business shall be notified by the commission at least seven days prior to any such proposed disclosure or use of information, and the commission will not oppose a motion by any affected business to intervene as a party to the judicial or administrative proceeding."

Sec. 13. G.S. 143-215.6(a)(1)e. is amended by deleting the words "any investigations" and by inserting in lieu thereof the words "a lawful inspection".

Sec. 14. This act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 16th day of June, 1981.

H. B. 815  CHAPTER 586

AN ACT TO AUTHORIZE REPRESENTATIVES OF THE DEPARTMENT OF HUMAN RESOURCES WHO ARE EMPOWERED TO INSPECT CERTAIN FACILITIES TO HAVE ACCESS TO CONFIDENTIAL MEDICAL RECORDS AND INFORMATION PERTAINING TO THE PATIENTS OR RESIDENTS OF THOSE FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-9(e)(1) is amended by adding, at the end of the present language, the following:

"Notwithstanding the provisions of G.S. 8-53 or any other provision of law relating to the confidentiality of communications between physician and patient, the representatives of the Department of Human Resources who make these licensure inspections may review any writing or other record in any recording medium which pertains to the admission, discharge, medication, treatment, medical condition, or history of persons who are or have been
patients, residents, or clients of the facility being inspected unless that patient, resident or client objects in writing to such review of his records. Physicians, psychologists, psychiatrists, nurses, and anyone else involved in giving treatment at or through a facility who may be interviewed by representatives of the Department may disclose to these representatives information related to an inquiry, notwithstanding the existence of the physician-patient privilege in G.S. 8-53 or any other rule of law; provided the patient, resident or client has not made written objection to such disclosure. The facility, its employees, and any person interviewed during these inspections shall be immune from liability for damages resulting from the disclosure of any information to the Department. Any confidential or privileged information received from review of records or interviews shall be kept confidential by the Department and not disclosed without written authorization of the patient, resident, client or legal representative or unless disclosure is ordered by a court of competent jurisdiction. The Department shall institute appropriate policies and procedures to ensure that this information shall not be disclosed without authorization or court order. The Department shall not disclose the name of anyone who has furnished information concerning a facility without the consent of that person. Neither the names of persons furnishing information nor any confidential or privileged information obtained from records or interviews shall be considered 'public records' within the meaning of G.S. 132-1. Prior to releasing any information or allowing any inspections referred to in this section the patient, resident or client must be advised in writing that he has the right to object in writing to such release of information or review of his records and that by an objection in writing he may prohibit the inspection or release of his records."

Sec. 2. G.S. 130-170.1(b) is amended by adding, at the end of the present language, the following:

"Notwithstanding the provisions of G.S. 8-53 or any other provision of law relating to the confidentiality of communications between physician and patient, the representatives of the Department of Human Resources who make these inspections may review any writing or other record in any recording medium which pertains to the admission, discharge, medication, treatment, medical condition, or history of persons who are or have been patients or clients of the facility being inspected unless that patient, resident or client objects in writing to such review of his records. Physicians, psychiatrists, nurses, and anyone else involved in giving treatment at or through a facility who may be interviewed by representatives of the Department may disclose to these representatives information related to an inquiry, notwithstanding the existence of the physician-patient privilege in G.S. 8-53 or any other rule of law; provided the patient, resident or client has not made written objection to such disclosure. The facility, its employees, and any person interviewed during these inspections shall be immune from liability for damages resulting from the disclosure of any information to the Department. Any confidential or privileged information received from review of records or interviews shall be kept confidential by the Department and not disclosed without written authorization of the patient, client or legal representative, or unless disclosure is ordered by a court of competent jurisdiction. The Department shall institute appropriate policies and procedures to ensure that this information shall not be disclosed without authorization or court order. The Department shall not
disclose the name of anyone who has furnished information concerning a facility without the consent of that person. Neither the names of persons furnishing information nor any confidential or privileged information obtained from records or interviews shall be considered 'public records' within the meaning of G.S. 132-1. Prior to releasing any information or allowing any inspections referred to in this section the patient, resident or client must be advised in writing that he has the right to object in writing to such release of information or review of his records and that by an objection in writing he may prohibit the inspection or release of his records."

Sec. 3. G.S. 131-126.9, is amended by inserting the following language immediately after the first sentence:

"Notwithstanding the provisions of G.S. 8-53 or any other provision of law relating to the confidentiality of communications between physician and patient, the representatives of the Department of Human Resources who make these inspections may review any writing or other record in any recording medium which pertains to the admission, discharge, medication, treatment, medical condition, or history of persons who are or have been patients, residents or clients of the facility being inspected unless that patient, resident or client objects in writing to such review of his records. Physicians, psychologists, psychiatrists, nurses, and anyone else involved in giving treatment at or through a facility who may be interviewed by representatives of the Department may disclose to these representatives information related to an inquiry, notwithstanding the existence of the physician-patient privilege in G.S. 8-53 or any other rule of law; provided the patient, resident or client has not made written objection to such disclosure. The facility, its employees, and any person interviewed during these inspections shall be immune from liability for damages resulting from the disclosure of any information to the Department. Prior to releasing any information or allowing any inspections referred to in this section the patient, resident or client must be advised in writing that he has the right to object in writing to such release of information or review of his records and that by an objection in writing he may prohibit the inspection or release of his records."

Sec. 4. G.S. 131-126.12 is amended by inserting the following language after the first sentence:

"Any confidential or privileged information received from review of records or interviews shall be kept confidential by the Department and not disclosed without written authorization of the patient, resident, client or legal representative, or unless disclosure is ordered by a court of competent jurisdiction. The Department shall institute appropriate policies and procedures to ensure that this information shall not be disclosed without authorization or court order. The Department shall not disclose the name of anyone who has furnished information concerning a facility without the consent of that person. Neither the names of persons furnishing information nor any confidential or privileged information obtained from records or interviews shall be considered 'public records' within the meaning of G.S. 132-1. Prior to releasing any information or allowing any inspections referred to in this section the patient, resident or client must be advised in writing that he has the right to object in writing to such release of information or review of his records and that by an objection in writing he may prohibit the inspection or release of his records."
Sec. 5. G.S. 131B-7 is amended by adding a new paragraph to read:

"Notwithstanding the provisions of G.S. 8-53 or any other provision of law relating to the confidentiality of communications between physician and patient, the representatives of the Department of Human Resources who make these inspections may review any writing or other record in any recording medium which pertains to the admission, discharge, medication, treatment, medical condition, or history of persons who are or have been patients, residents or clients of the facility being inspected unless that patient, resident or client objects in writing to such review of his records. Physicians, psychologists, psychiatrists, nurses, and anyone else involved in giving treatment at or through a facility who may be interviewed by representatives of the Department may disclose to these representatives information related to an inquiry, notwithstanding the existence of the physician-patient privilege in G.S. 8-53 or any other rule of law; provided the patient, resident or client has not made written objection to such disclosure. The facility, its employees, and any person interviewed during these inspections shall be immune from liability for damages resulting from the disclosure of any information to the Department. Any confidential or privileged information received from review of records or interviews shall be kept confidential by the Department and not disclosed without written authorization of the patient, resident, client or legal representative, or unless disclosure is ordered by a court of competent jurisdiction. The Department shall institute appropriate policies and procedures to ensure that this information shall not be disclosed without authorization or court order. The Department shall not disclose the name of anyone who has furnished information concerning a facility without the consent of that person. Neither the names of persons furnishing information nor any confidential or privileged information obtained from records or interviews shall be considered 'public records' within the meaning of G.S. 132-1. Prior to releasing any information or allowing any inspections referred to in this section the patient, resident or client must be advised in writing that he has the right to object in writing to such release of information or review of his records and that by an objection in writing he may prohibit the inspection or release of his records."

Sec. 6. G.S. 153A-222, is amended by adding, at the end of the present language, the following:

"Notwithstanding the provisions of G.S. 8-53 or any other provision of law relating to the confidentiality of communications between physician and patient, the representatives of the Department of Human Resources who make these inspections may review any writing or other record in any recording medium which pertains to the admission, discharge, medication, treatment, medical condition, or history of persons who are or have been inmates of the facility being inspected. Physicians, psychologists, psychiatrists, nurses, and anyone else involved in giving treatment at or through a facility who may be interviewed by representatives of the Department may disclose to these representatives information related to an inquiry, notwithstanding the existence of the physician-patient privilege in G.S. 8-53 or any other rule of law; provided the patient, resident or client has not made written objection to such disclosure. The facility, its employees, and any person interviewed during these inspections shall be immune from liability for damages resulting from the disclosure of any information to the Department. Any confidential or privileged
information received from review of records or interviews shall be kept confidential by the Department and not disclosed without written authorization of the inmate or legal representative, or unless disclosure is ordered by a court of competent jurisdiction. The Department shall institute appropriate policies and procedures to ensure that this information shall not be disclosed without authorization or court order. The Department shall not disclose the name of anyone who has furnished information concerning a facility without the consent of that person. Neither the names of persons furnishing information nor any confidential or privileged information obtained from records or interviews shall be considered 'public records' within the meaning of G.S. 132-1. Prior to releasing any information or allowing any inspections referred to in this section the patient, resident or client must be advised in writing that he has the right to object in writing to such release of information or review of his records and that by an objection in writing he may prohibit the inspection or release of his records."

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1981.

H. B. 894  CHAPTER 587
AN ACT TO CLARIFY REQUIREMENTS FOR THE FILING OF CONDOMINIUM PLANS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 47A-15 is amended by designating the present language as subsection (a) and adding two new subsections to read:

"(b) In order to be recorded, plans filed for recording pursuant to subsection (a) shall:

(1) Be reproducible plans on cloth, linen, film or other permanent material and be submitted in that form; and

(2) Have an outside marginal size of not more than twenty-one (21) inches by thirty (30) inches nor less than eight and one-half (8 1/2) inches by eleven (11) inches, including one and one-half (1 1/2) inches for binding on the left margin and a one-half (1/2) inch border on each of the other sides. Where size of the buildings, or suitable scale to assure legibility require, plans may be placed on two or more sheets with appropriate match lines.

(c) The fee for recording each plan sheet submitted pursuant to subsection (a) shall be as prescribed by G.S. 161-10(a)(3)."

Sec. 2. This act shall become effective January 1, 1982, and shall apply to all plans filed for recording on and after that date.

In the General Assembly read three times and ratified, this the 16th day of June, 1981.
H. B. 1136

CHAPTER 588
AN ACT TO VALIDATE PAST ANNEXATIONS AND ELECTIONS OF AND BY THE TOWN OF SYLVA.

The General Assembly of North Carolina enacts:

Section 1. All annexations made by the Town of Sylva between January 1, 1963, and December 31, 1980, are hereby validated.

Sec. 2. (a) Any and all official acts, actions, expenditures and levies of taxes or assessments by the Town of Sylva since January 1, 1963, are hereby ratified, validated and confirmed.
(b) All elections and the results thereof held in and for the Town of Sylva since January 1, 1963, are hereby validated.

Sec. 3. This act does not affect pending litigation.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1981.

S. B. 355

CHAPTER 589
AN ACT TO ALLOW BEER SALES IN CERTAIN TOWNSHIPS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18B-603(d) as that statute appears in Section 2 of Chapter 412 of the 1981 Session Laws is amended by renumbering subsections (3) through (4) as subsections (4) through (5) and adding a new subsection (3) to read:

“(3) The Commission may issue off-premises malt beverage permits to any establishment that meets the requirements under G.S. 18B-1001(2) in any township which has voted to permit the sale of mixed beverages, regardless of any other local act concerning sales of those kinds of alcoholic beverages.”

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1981.

S. B. 556

CHAPTER 590
AN ACT TO PROVIDE FOR COMPENSATION TO INSURANCE AGENTS FOR ASSISTANCE WITH RECOUPMENT SURCHARGES.

Whereas, the North Carolina General Statutes, in Article 25A of Chapter 58, have established the North Carolina Motor Vehicle Reinsurance Facility and established a plan of operation whereby losses sustained by members may be offset through a process of “recoupment”; and

Whereas, the recoupment process is carried out by imposing surcharges upon individual insureds who respond in many instances by questioning and complaining about such charges; and

Whereas, insured persons traditionally contact the agent from whom the policy was obtained regarding such questions and complaints; and

Whereas, insurance agents traditionally have been compensated for their services to insured persons solely through commissions paid as a percentage of premium charges on policies written and such compensation has been the only source the agents have for covering costs associated with all the services provided to customers; and

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Whereas, the Reinsurance Facility has recognized and admitted that agents do have expenses in connection with recoupment surcharges; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 58-248.34(f) is amended to add:

"The Board of Governors shall adopt and implement a plan for compensation of agents of Facility members when recoupment surcharges are imposed; such compensation shall not exceed the compensation or commission rate normally paid to the agent for the issuance or renewal of the automobile liability policy issued through the North Carolina Reinsurance Facility affected by such surcharge; provided, however, that the surcharge provided for in this section shall include an amount necessary to recover the amount of the assessment to member companies and the compensation paid by each member, pursuant to this section, to agents."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1981.

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**S. B. 600**

**CHAPTER 591**

AN ACT TO EXEMPT CERTAIN PRESSURE VESSELS FROM THE CONSTRUCTION REQUIREMENTS OF THE "UNIFORM BOILER AND PRESSURE VESSEL ACT" WHEN THE OWNER TRANSFERS THE VESSEL FROM ITS FACILITY OUT OF STATE TO ITS FACILITY WITHIN THIS STATE AND INSTALLS IT PRIOR TO DECEMBER 31, 1981.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 95-69.10, as it appears in the 1981 Replacement Volume 2C of the General Statutes of North Carolina, is amended by adding a new subsection (d) to read:

"(d) The construction requirements established by the Department of Labor shall not apply to pressure vessels installed in this State prior to December 31, 1981, that:

1. are of one-piece, forged construction and have no weldments;
2. are constructed before January 1, 1981, and operating or could be operated, under the laws of any state that has adopted one or more sections of the ASME Code;
3. are transferred into this State without a change of ownership; and
4. are determined by the director to be constructed under standards substantially equivalent to those established by the department at the time of transfer;

provided that they are equipped with ASME Code and National Board certified safety relief valves."

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1981.
AN ACT TO AMEND ARTICLE 52 OF CHAPTER 143 OF THE NORTH CAROLINA GENERAL STATUTES ENTITLED "THE NORTH CAROLINA PESTICIDE LAW OF 1971".

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-440(b) shall be rewritten to read as follows:

"(b) The board may include in any such restricted-use regulation the time and conditions of sale, distribution, or use of such restricted-use pesticides, may prohibit the use of any restricted-use pesticide for designated purposes or at designated times; may require the purchaser or user to certify that restricted-use pesticides will be used only as labeled or as further restricted by regulation, may require the certification of private applicators and, after opportunity for a hearing, may suspend, revoke or modify the certification for violation of any provision of this Article, or any rule or regulation adopted thereunder; and may, if it deems it necessary to carry out the provisions of this Part, require that any or all restricted-use pesticides shall be purchased, possessed, or used only under permit of the board and under its direct supervision in certain areas and/or under certain conditions or in certain quantities or concentrations except that any person licensed to sell such pesticides may purchase and possess such pesticides without a permit. The board may require all persons issued such permits to maintain records as to the use of the restricted-use pesticides. The board may authorize the use of restricted-use pesticides by persons licensed under the North Carolina Structural Pest Control Act without a permit."

Sec. 2. G.S. 143-442(e) is amended by adding the following at the end thereof:

"The board may require the manufacturer or distributor of any pesticide, for which registration has been refused, cancelled, suspended or voluntarily discontinued or which has been found adulterated or deficient in its active ingredient, to remove such pesticide from the marketplace."

Sec. 3. G.S. 143-443(b)(2a) is repealed.

Sec. 4. G.S. 143-443(b) is amended by adding a new subsection (3) as follows:

"(3) For any person to use any pesticide in a manner inconsistent with its labeling."

Sec. 5. G.S. 143-447(c)(1)b is amended by adding the following at the end thereof:

"or has had its registration suspended or revoked or is the subject of a stop sale, stop use, or removal order."

Sec. 6. G.S. 143-448(d) and 143-452(c) are repealed.

Sec. 7. G.S. 143-452(h) is rewritten as follows:

"(h) Any licensee whose license is lost or destroyed may secure a duplicate license for a reasonable fee to be established by the board."

Sec. 8. G.S. 143-457 is repealed.

Sec. 9. G.S. 143-460 is amended by adding a new subsection (26a) as follows:

"(26a) The term ‘pest’ means any insect, rodent, nematode, fungus, weed or any other noxious or undesirable microorganism or macroorganism, except viruses, bacteria, or other microorganisms on or in living persons or other living animals."
Sec. 10. G.S. 143-460(28) is rewritten as follows:

“(28) The term ‘pesticide’ means:
   a. Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, and
   b. Any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.”

Sec. 11. G.S. 143-460 is amended by adding a new subsection (36a) as follows:

“(36a) The phrase ‘to use any pesticide in a manner inconsistent with its labeling’ means to use any pesticide in a manner not permitted by the labeling; provided that the phrase shall not include:
   a. applying a pesticide at any dosage, concentration, or frequency less than that specified on the labeling,
   b. applying a pesticide against any target pest not specified on the labeling if the application is to the crop, animal, or site specified on the labeling, unless the labeling specifically states that the pesticide may be used only for the pests specified on the labeling,
   c. employing any method of application not prohibited by the labeling, or
   d. mixing pesticides or mixing a pesticide with a fertilizer when such mixture is not prohibited by the labeling.”

Sec. 12. G.S. 143-469 is amended by inserting “(a)” at the beginning thereof and by adding new subsections (b) and (c) as follows:

“(b) A civil penalty of not more than two thousand dollars ($2,000) may be assessed by the board against any person who:
   1) sells or offers for sale any unregistered pesticide in violation of G.S. 143-442;
   2) uses a pesticide in a manner inconsistent with its labeling;
   3) stores or disposes of a pesticide or pesticide container by means other than means prescribed on the labeling or regulations adopted pursuant to this Article;
   4) makes false or fraudulent claims about the effect of any pesticide or method of application of a pesticide;
   5) violates any stop sale, stop use, or removal order adopted under G.S. 143-447;
   6) fails to provide names and addresses of recipients of pesticides which are the subject of stop sale, stop use, or removal orders when the person is the registrant of the pesticide or has sold or distributed the pesticide;
   7) fails to make and keep records required by this Article, fails to make reports when required by this Article or refuses to make such records and reports available for audit or inspection by the board or its agents;
   8) falsifies all or part of any application for the registration of a pesticide or the issuance or renewal of any license under this Article;
   9) makes false statements or provides false information in connection with any investigation conducted under this Article; or
   10) operates as a pesticide applicator, consultant or dealer without a license.

In determining the amount of any penalty, the board may consider the degree and extent of harm caused by the violation and the cost of rectifying the damage caused by the violation.
(c) Proceedings for the assessment of civil penalties under this section shall be governed by Chapter 150A of the North Carolina General Statutes. If the person assessed a civil penalty fails to pay the penalty to the North Carolina Department of Agriculture, the board may institute an action in the superior court of the county in which the person resides or has his principal place of business to recover the unpaid amount of said penalty. An action to recover a civil penalty under this section shall not relieve any party from any other penalty prescribed by law.

(d) Notwithstanding any other provision of this Article, the maximum penalty which may be assessed under this section against any person referred to in G.S. 143-460(29)a. shall not exceed five hundred dollars ($500.00). Penalties may be assessed under this section against a person referred to in G.S. 143-460(29)a. only for willful violations."

Sec. 13. G.S. 143-470 is repealed.
Sec. 14. This act shall become effective July 1, 1981.
In the General Assembly read three times and ratified, this the 17th day of June, 1981.

S. B. 508

CHAPTER 593

AN ACT TO EXPAND THE DISQUALIFICATION OF CLAIMANTS FOR UNEMPLOYMENT BENEFITS WHO REFUSE SUITABLE WORK WITHOUT GOOD CAUSE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 96-14(3) is amended: (1) by deleting the word "after" in the second line thereof and inserting in lieu thereof the words "in which", (2) by deleting all of the language in the second line after the word "occurs", and (3) by deleting the language in the third line up to and including the word "benefits".
Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 17th day of June, 1981.

S. B. 567

CHAPTER 594

AN ACT TO CREATE A NEW ARTICLE TO CHAPTER 66 TO PREVENT FRAUD AND ABUSE BY DISCOUNT BUYING CLUBS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 66 of the General Statutes is amended to create a new Article 22 as follows:

"ARTICLE 22.
"Discount Buying Clubs.

"§ 66-126. Definition.—For the purpose of this Article, a 'discount buying club' is any person, firm or corporation, which in exchange for any valuable consideration offers to sell or to arrange the sale of goods or services to its customers at prices represented to be lower than are generally available. 'Discount buying club' shall not include any cooperative buying association or other group in which no person is intended to profit or actually profits beyond the benefit that all members receive from buying at a discount; nor shall any person, firm or corporation be deemed 'a discount buying club' solely by virtue of the fact that (1) for fifty dollars ($50.00) or less it sells tickets or coupons
valid for use in obtaining goods or services from a retail merchant, or (2) as a
service collateral to its principal business, and for no additional charge it
arranges for its members or customers to purchase or lease directly from
particular merchants at a specified discount.

"§ 66-127. Contracts to be in writing.—Every contract between a discount
buying club and its customers shall be in writing, fully completed, dated and
signed by all contracting parties. A copy of the completed contract shall be given
to the buyer at the time he signs it. The contract shall in clear, conspicuous and
simple language:

1) State the duration of the contract in a definite period of years or months.
If the contract calls for periodic renewal fees, the amount of such fees must be
stated.

2) State that the buying club will maintain a trust account and bond in
compliance with G.S. 66-130, and identify the location of the trust account and
the name and address of the surety company.

3) Contain, immediately above the customer’s signature in boldface type of
not less than 10 points size, a statement substantially as follows:

‘You, the customer, may cancel this contract at any time prior to
midnight of the third business day after the date of this contract. To
cancel you must notify the company in writing of your intent to cancel.’

4) List the categories of goods and services the buying club contracts to make
available.

5) State the procedures by which the customer can select, order, and pay for
merchandise or services and state the time and manner of delivery.

6) State the method the discount buying club will use in setting the price
customers will pay for goods or services.

7) List any charges, however denominated, which are incidental to the
purchase of goods or services and which must be paid by the customer.

8) State the discount buying club’s obligations with respect to warranties on
goods or services ordered.

9) State the customer’s rights and obligations with respect to the
cancellation or return of ordered goods.

"§ 66-128. Customer’s right to cancel.—(a) In addition to any other right to
revoke an offer or cancel a sale or contract, the customer has the right to cancel
a contract for the services of a discount buying club until midnight of the third
business day after the buyer signs a contract which complies with G.S. 66-127.

(b) Cancellation occurs when the customer gives written notice of
cancellation to the discount buying club at the address stated in the contract.

(c) Notice of cancellation, if given by mail, is given when it is deposited in the
United States mail properly addressed with postage prepaid.

(d) Notice of cancellation need not take any particular form and is sufficient
if it indicates by any form of written expression that the customer intends or
wishes not to be bound by the contract.

(e) For purposes of this Article, business days are all days other than
Saturdays, Sundays, holidays, and days on which the discount buying club is not
open for business.

"§ 66-129. Prohibited acts.—Discount buying clubs shall not:

1) Represent to any potential customer that his opportunity to join is limited
in time or that his delay in joining may subject him to an increased price. This
shall not preclude reference to a general price increase that will take effect on a specified date.

(2) Discourage or refuse to allow potential customers to inspect all of their current merchandise catalogs and price lists during normal business hours at their place of business.

(3) Compare their prices for goods or services with other prices unless the comparison prices are prices at which substantial sales of the same goods or services were made in the same area within the past 90 days, and unless a written copy of the comparison is given to the buyer to keep.

(4) Fail upon the customer's request to cancel without charge any purchase order for:

a. services, if such services have not been substantially performed;

b. goods to be specially manufactured, if such manufacture has not been substantially performed; or

c. any other goods, if they have not been delivered to the customer or consigned to a certified public carrier for delivery;

within 90 days after the purchase order was received by the buying club. This provision shall not be construed to limit a customer's right to earlier performance created by contract or by any other applicable law or regulation.

(5) Charge any amount in excess of demonstrable actual damages upon a customer's cancellation of an order.

"§66-130. Bond and trust account required.—(a) Every discount buying club shall obtain and maintain a bond from a surety company licensed to do business in North Carolina. Such bond shall be in an amount not less than twenty-five thousand dollars ($25,000). Whenever a discount buying club has contracts with North Carolina residents, from whom it has received contract payments of fifty thousand dollars ($50,000) or more, exclusive of renewal fees, such bond shall be in an amount not less than fifty thousand dollars ($50,000).

(b) Every discount buying club shall hold advance payments for goods and services in trust in a separate account used solely for that purpose. The funds in such account shall be held free from all liens. Records of such account shall be kept by the buying club in the regular course of its business sufficient to identify the amount held for each customer, the dates of the receipt and withdrawal of funds, and the purpose of withdrawal. Such records must be retained for a period not less than four years following withdrawal. Funds may not be withdrawn from the trust account unless and until (1) the ordered goods have been actually delivered to the customer or consigned to a certified public carrier; or (2) ordered services have been provided in full, or (3) the buying club has refunded the customer's payment.

(c) Any person who is damaged by any violation of this Article, or by any breach by the discount buying club of its contract, may bring an action against the bond, provided that the aggregate liability of the surety shall not exceed the amount of the bond.

(d) Violations of subsections (a) or (b) of this section shall constitute a Class J felony.

"§66-131. Remedies.—(a) Any person injured by a violation of this Article, or breach of any obligation created by this Article or contract subject thereto, may bring an action for recovery of damages, including reasonable attorneys' fees.

(b) The violation of any provision of this Article shall constitute an unfair act or practice under G.S. 75-1.1.
(c) The remedies provided herein shall be in addition to any other remedies provided by law or equity."

Sec. 2. This act shall become effective July 1, 1981.
In the General Assembly read three times and ratified, this the 17th day of June, 1981.

H. B. 618  CHAPTER 595
AN ACT TO AUTHORIZE THE CITY OF WILMINGTON TO EXERCISE THE POWER OF EMINENT DOMAIN TO ACQUIRE REAL PROPERTY FOR PURPOSES OF PUBLIC AUDITORIUMS, COLISEUMS, AND CONVENTION AND CIVIC CENTERS.

The General Assembly of North Carolina enacts:

Section 1. The caption and third line of G.S. 160A-489 are amended to add a comma and the words "and civic" after the word "convention" and before the word "center".

Sec. 2. G.S. 160A-489 is further amended by inserting in the fifth line thereof between the word "therefor" and the semicolon the words "by voluntary grant and sale or condemnation".

Sec. 3. G.S. 160A-241 is amended by adding the following new subsection:
"(8) Establishing, enlarging, constructing, or improving public auditoriums, coliseums, and convention and civic centers pursuant to G.S. 160A-489."

Sec. 4. This act shall only apply to the City of Wilmington.

Sec. 5. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 17th day of June, 1981.

H. B. 677  CHAPTER 596
AN ACT TO REPEAL CHAPTER 790, SESSION LAWS OF 1957, LIMITING THE TAX FOR FIRE PROTECTION IN GRANVILLE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 790, Session Laws of 1957, is repealed.

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 17th day of June, 1981.

H. B. 710  CHAPTER 597
AN ACT TO AMEND THE CHARTER OF THE TOWN OF STEM IN GRANVILLE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 183 of the Private Laws of 1911 relating to the incorporation of the Town of Stem in Granville County is amended by striking out the words and figures, "twenty-five cents (25c)" in line 7 of Section 5, and by inserting in lieu thereof the words and figures, "one dollar ($1.00)".

Sec. 2. Chapter 118, Session Laws of 1949 is hereby repealed.

Sec. 3. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 17th day of June, 1981.
AN ACT ESTABLISHING A HARBOR AUTHORITY FOR THE OPERATION AND MAINTENANCE OF PUBLIC HARBORS IN THE COUNTY OF CARTERET.

The General Assembly of North Carolina enacts:

Section 1. There is hereby created the Carteret County Harbor Authority (hereinafter referred to as the Harbor Authority); which shall be a body corporate and politic, having the powers and jurisdiction hereinafter enumerated and such other and additional powers as shall be conferred upon it by future acts of the General Assembly.

Sec. 2. The Harbor Authority shall consist of seven members who shall be resident voters of the County of Carteret. The seven members of the Harbor Authority shall be appointed by the Carteret County Board of Commissioners. Four of the original appointments to the Harbor Authority by the Carteret County Board of Commissioners shall be for a term of three years, and the remaining three original appointments to the Harbor Authority shall be for a period of two years so that the terms of office for the members of the Harbor Commission shall be staggered. Thereafter, upon the expiration of the terms of office for the original appointments to the Harbor Authority by the Carteret County Board of Commissioners, the terms of office for each member shall be for a period of two years. Each of the members shall serve until their successors have been appointed and have assumed the office, and in the event of a vacancy by death or otherwise of any member of the Harbor Authority, the Carteret County Board of Commissioners shall have the right to appoint a successor for the remainder of the unexpired term of the member for which the vacancy has occurred. Each of the members and their successors so appointed shall take and subscribe before the Clerk of the Superior Court of Carteret County, an oath of office and shall file the same with the County Commissioners of Carteret County.

Sec. 3. The members shall, for the purpose of doing business, constitute a board of directors, which may adopt suitable by-laws for its management. The members shall elect from the board’s members a chairman and secretary who shall serve for a term of one year. The members of the board shall receive such compensation, per diem or otherwise, as may be approved and agreed upon by the Carteret County Board of Commissioners.

Sec. 4. The said Harbor Authority shall constitute a body, both corporate and politic, and shall have the following powers and authority:

(1) To purchase, acquire, establish, construct, own, control, lease, equip, improve, maintain, operate and regulate public harbors or harbors of refuge, docks, ramps, and other general facilities for the use of boats and vessels within the limits of Carteret County; and for any of such purposes, to own, hold, lease and/or operate real or personal property; to borrow money and to issue bonds and to secure the same by mortgages, with the consent and written approval of the Carteret County Commissioners;

(2) To sue or be sued in the name of said Harbor Authority, to acquire by purchase and to hold lands for the purpose of constructing, maintaining or operating any harbor within the limits of Carteret County, and to make such contracts and to hold such personal property as may be necessary for the exercise of the powers of said Harbor Authority;
(3) To charge and collect reasonable and adequate fees and rents for the use of harbor facilities and harbor property or for services rendered in the operation thereof;

(4) To make all reasonable rules and regulations as it deems necessary for the proper maintenance of public harbors and harbors of refuge in Carteret County and to provide penalties for the violation of such rules and regulations; provided, said rules and regulations and schedules of fees are not in conflict with the laws of the State of North Carolina or the laws of the United States of America;

(5) To issue bonds or other securities and obligations for the purpose of providing funds for such construction, maintenance and operation of public harbor and harbor of refuge facilities. Provided, the issuance of bonds or other securities and obligations shall require the express approval of the Carteret County Board of Commissioners. All such bonds or other securities and obligations shall meet the requirements of and be issued pursuant to Article 5 of Chapter 159 of the North Carolina General Statutes entitled “Local Government Revenue Bond Act”. Any bonds or other securities and obligations issued pursuant to this section shall be denominated “Carteret County Harbor Authority Bonds”. The bonds shall be signed by the Chairman of the Harbor Authority and the corporate seal affixed or impressed upon each bond and attested by the secretary of the said board. Such bonds, notes or securities issued for the purpose or purposes set out above, may be issued and sold with the express approval of the Carteret County Board of Commissioners, but the sale shall be made under provisions of the “Local Government Revenue Bond Act”, Article 5 of Chapter 159 of the North Carolina General Statutes; Bonds and notes issued under this act shall be exempt from all State, federal, county or municipal taxes or assessments, direct or indirect, general or special, and the interest paid on said bonds or notes shall not be subject to taxation as income. The said bonds, notes or other securities shall not be obligations of the County of Carteret, but the said Harbor Authority is authorized and empowered to pledge the revenues, rents, income and tolls arising out of the use of any harbor property or any specific part of said harbor property until such times and the sums borrowed therefor are fully amortized and repaid; and

(6) The Harbor Authority is hereby authorized and empowered to acquire from the County of Carteret, the State of North Carolina, the United States of America, and any other owner or owners of real or personal property, by agreement therewith, either by gift or for such other consideration as deemed proper by the Harbor Authority, any real or personal property which may be necessary for the construction, operation and maintenance of harbors and harbors of refuge in the County of Carteret.

Sec. 5. Any lands acquired, owned, controlled, leased or occupied by the said Harbor Authority, shall, and are hereby declared to be acquired, owned, controlled, leased and occupied for a public purpose.

Sec. 6. Private property needed by said Harbor Authority for any harbors or harbors of refuge may be acquired by gift or devise, or may be acquired by purchase.

Sec. 7. The said Harbor Authority shall make an annual report to the Carteret County Commissioners, setting forth in detail the operations and transactions conducted by it pursuant to this act. The said Harbor Authority shall be regarded as the corporate instrumentality and agent for the County of
Carteret for the purpose of operating, managing and developing harbor facilities in the County of Carteret, but the Harbor Authority shall have no power to pledge the credit of the County of Carteret, or any subdivision thereof, or to impose any obligation upon the County of Carteret or any subdivision thereof, except and when such power is expressly granted by statute or by the written consent and approval of the County of Carteret. However, the Harbor Authority shall not have the exclusive right and power to manage, operate or develop harbor facilities in the County of Carteret, but Carteret County shall continue to have the power and authority to operate, manage, acquire or develop harbor facilities and harbors of refuge concurrent with said Harbor Authority.

Sec. 8. The Harbor Authority shall also have the following additional rights and powers with regard to the acquisition, operation, maintenance or development of harbors and harbors of refuge in the County of Carteret:

(1) To acquire, construct, equip, maintain, develop and improve harbor facilities in the County of Carteret including, but not limited to, docks, wharfs, piers, buildings, structures and the equipment, and to carry out improvements to the harbors and harbors of refuge;

(2) To establish rules and regulations and to establish and collect fees for the handling and movement of seafood and other products over the piers, docks and facilities of said harbors;

(3) To accept funds from and to enter into agreements with the County of Carteret, State of North Carolina and the United States of America for the purpose of acquiring, developing, improving, operating or maintaining harbors and harbors of refuge within Carteret County. Provided, that the Harbor Authority shall have no powers or authority over the State Port of Morehead City;

(4) The said Harbor Authority is hereby authorized to employ such agents, employees, engineers, attorneys and other persons whose services may be deemed by the Harbor Authority to be necessary or useful in carrying out the provisions of this act, and to fix and establish the salaries and compensation within the limits of available funding;

(5) Be authorized and empowered to enact ordinances, rules and regulations regarding the use of said harbors and harbor facilities and the docking of boats and other vessels within said harbors. All rules, regulations and ordinances adopted pursuant to the authority of this subsection shall be recorded in the proceedings of the Harbor Authority and certified copies of such rules, regulations and ordinances shall be filed with the Clerk to the Carteret County Board of Commissioners, and the Authority shall cause to be posted at appropriate places on the properties of the Authority, notice to the public of applicable rules, regulations and ordinances as may be adopted under the authority of this subsection. Any person violating any such rules, regulations or ordinances shall, upon conviction thereof, be guilty of a misdemeanor and shall be punished by a fine not exceeding fifty dollars ($50.00) or imprisonment not to exceed 30 days; and

(6) The Carteret County Sheriff's Department shall have the power of arrest of persons committing violations of the rules, regulations and ordinances lawfully adopted by the Harbor Authority as herein authorized. Provided, that State and federal law enforcement agencies shall continue to have jurisdiction and authority within said harbor, and policemen of incorporated towns shall
continue to have jurisdiction and authority within said harbors if said harbors are located within the municipal limits of a town or municipality in Carteret County.

Sec. 9. The Harbor Authority is hereby authorized and empowered to do any and all things necessary to accomplish the purposes of this act. This act shall not be construed to reduce the authority of municipalities over public waters.

Sec. 10. If any, part or parts of this act shall be held to be unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this act, and all laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 11. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of June, 1981.

H. B. 939

CHAPTER 599

AN ACT TO MAKE ISOLATED AMENDMENTS TO THE GENERAL STATUTES AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1A-1, Rule 17(b)(6) is repealed.

Sec. 2. G.S. 1A-1, Rule 32(c), as the same appears in the 1979 Cumulative Supplement to Volume 1A, is amended on line 6 by adding after "subsection (a)(2)" the following: "or (a)(3)".

Sec. 3. Article 19 of Chapter 7A of the General Statutes is hereby amended as follows:
a. G.S. 7A-228 is rewritten to read as follows:

§7A-228. New trial before magistrate; appeal for trial de novo; how appeal perfected; oral notice; dismissal.—(a) With the consent of the chief district court judge, a magistrate may set aside an order or judgment for mistake or excusable neglect pursuant to G.S. 1A-1, Rule 60(b)(1) and order a new trial before a magistrate. After final disposition before the magistrate, the sole remedy for an aggrieved party is appeal for trial de novo before a district court judge. Notice of appeal may be given orally in open court upon announcement of or rendition of the judgment. If not announced in open court, notice of the appeal must be given in writing to the magistrate. The appeal must be perfected within 10 days after rendition of the judgment in the manner set out in subsection (b). Upon the announcement of the appeal in open court or upon receipt of the written notice of appeal, the magistrate shall note the appeal upon the judgment.

(b) The appeal shall be perfected by payment of the costs of the appeal and by serving a written notice of the appeal stating that the cost of the appeal has been paid on all other parties and the clerk of superior court. Failure to demand a jury is a waiver of the right thereto.

(c) Whenever such appeal is docketed and is regularly set for trial, and the appellant fails to appear and prosecute his appeal, the presiding judge may have the appellant called and the appeal dismissed; and in such case the judgment of the magistrate shall be affirmed."
b. G.S. 7A-230 is rewritten to read as follows:

"§ 7A-230. Jury trial on appeal.—(a) The appellant in his written notice of appeal may demand a jury on the trial de novo. Within 10 days after receipt of the notice of appeal stating that the costs of the appeal have been paid, any appellee by written notice served on all parties and on the clerk of superior court may demand a jury on the trial de novo."

Sec. 4. G.S. 20-154(b) is amended on lines 18 and 19 of the subsection by deleting the following: "; and provided further that the violation of this section shall not constitute negligence per se."

Sec. 5. G.S. 28A-8-1(b)(6) is amended in line 1 by adding after the word "representative" the following: "of an intestate."

Sec. 6. G.S. 28A-8-1(b) is hereby amended by adding a new subdivision to read as follows:

"(8) An administrator with the will annexed who resides in the State of North Carolina when all of the devisees of the decedent are over 18 years of age and file with the clerk of superior court a written waiver instrument agreeing to relieve him of the necessity of giving bond."

Sec. 7. G.S. 30-17 is amended in the fourth line by deleting the word "college" and is further amended by inserting in that same line after the word "student" the following: "in any educational institution."

Sec. 8. G.S. 31-11.6(a) is hereby amended on lines 1 and 2 by deleting the following: "In addition to the procedures for the execution of a will set out in G.S. 31-3.3, any and by substituting in lieu thereof "Any"."

Sec. 9. The execution of an acknowledgment of a will by a testator, and of the affidavits of witnesses, made before an officer authorized to administer oaths under the laws of this State and evidenced by the officer's certificate substantially in the form set out in G.S. 31-11.6 if done during the period between October 1, 1979, and the effective date of this act, shall be considered to be a valid execution and attestation of a written will regardless of whether or not the will was signed and attested under the provisions of G.S. 31-3.3 separately from the execution of the acknowledgment by the testator and the affidavits of the witnesses. Such wills may be probated in accordance with G.S. 31-18.1(a)(4).

Sec. 10. G.S. 39-13.4 is amended in line 7 by deleting "husband or wife" and substituting in lieu thereof "conveying spouse" and by adding after the word "grantee" in that line the following: "and shall pass such title free and clear of all rights in such property and free and clear of such interest in property that the other spouse might acquire solely as a result of the marriage, including any rights arising under G.S. 29-30,".

Sec. 11. G.S. 39-13.4 is further amended beginning on line 14 by adding a new paragraph to read as follows:

"All conveyances of any interest in real property by a spouse who had previously executed a valid and lawful deed of separation, or separation agreement, or property settlement, which authorized the parties thereto to convey real property or any interest therein without the consent and joinder of the other, when said deed of separation, separation agreement, or property settlement, or a memorandum of the deed of separation, separation agreement, property settlement, setting forth such authorization, had been previously recorded in the county where the property is located, and when such conveyances were executed before the effective date of this act, shall be valid to
pass such title as the conveying spouse may have to his or her grantee, and shall pass such to him free and clear of rights in such property and free and clear of such interest in such property that the other spouse might acquire solely as a result of the marriage, including any rights arising under G.S. 29-30, unless an instrument in writing canceling the deed of separation, separation agreement, or property settlement, or memorandum thereof, properly executed and acknowledged by said husband and wife, is recorded in the office of said register of deeds. The instrument which is registered under this section to authorize the conveyance of an interest in real property or the cancellation of the deed of separation, separation agreement, property settlement, or memorandum thereof shall comply with G.S. 52-10 or 52-10.1."

Sec. 12. G.S. 45-13 is hereby repealed.

Sec. 13. G.S. 49-5 is amended in line 5 by substituting both the word “Proceedings” for the word “Indictments” and the word “brought” for the word “returned” and is further amended in line 8 by substituting “proceedings against” in lieu of “indictment of”.

Sec. 14. G.S. 49-14(c) is rewritten to read as follows: “No such action shall be commenced nor judgment entered after the death of the putative father.”

Sec. 15. G.S. 50-8 is hereby amended on line 16 by adding after the word “personally” the following: “or service of summons accepted by the defendant personally in the manner provided in G.S. 1A-1, Rule 4(j)(1)” and is further amended on line 18 by adding after the words “with summons” the following: “or in which the defendant personally accepted service of the summons”.

Sec. 16. G.S. 52-8 is amended on line 4 by adding after the word “wife” the following: “or with the requirements that there be findings that such a contract between a husband and wife is not unreasonable or injurious to the wife”.

Sec. 17. G.S. 53-43.5(a) is amended on line 1 by adding after “A bank” the following: “, including an industrial bank.”; G.S. 53-43.5(b) is amended on line 1 by adding after “A bank” the following: “, including an industrial bank.”; and G.S. 53-43.5(c) is amended in line 1 by adding after “an institution” the following: “, including an industrial bank.”.

Sec. 18. G.S. 53-53 is hereby repealed.

Sec. 19. (a) G.S. 53-52 is repealed in its entirety; (b) G.S. 53-76 is amended in lines 3 through 6 by inserting a period after the word “bank” on line 3 and by deleting the remainder of the section, being all of lines 4, 5, and 6; and (c) G.S. 25-4-406(1) is amended by adding at the end of that subsection a new sentence to read as follows: “A customer will be considered to have acted with reasonable care and promptness if he notifies the bank within 60 days of receipt of the statement of account accompanied by such items.”

Sec. 20. G.S. 164-13(a) is amended by adding a new subdivision to read as follows: “(5) To receive and consider proposed changes in the law recommended by the American Law Institute, by the National Conference of Commissioners on Uniform State Laws or by other learned bodies.”

Sec. 21. This act shall become effective October 1, 1981, and shall not affect pending litigation.
In the General Assembly read three times and ratified, this the 17th day of June, 1981.

H. B. 293

CHAPTER 600

AN ACT TO AMEND CHAPTER 90, ARTICLE 17, OF THE GENERAL STATUTES RELATING TO DISPENSING OPTICIANS.

The General Assembly of North Carolina enacts:

Section 1. Article 17 of Chapter 90 of the General Statutes is amended by adding a new section to read as follows:

"§ 90-236.1. Requirements for filling contact lens prescriptions.—No person, firm or corporation licensed or registered under this Article shall fill a prescription or dispense lenses, other than spectacle lenses, unless the prescription specifically states on its face that the prescriber intends it to be for contact lenses and includes the type and specifications of the contact lenses being prescribed. No person, firm or corporation licensed under this Article shall fill a prescription beyond the expiration date stated on the face thereof.

Any person, firm or corporation that dispenses contact lenses on the prescription of a practitioner licensed under Articles 1 or 6 of this Chapter shall, at the time of delivery of the lenses, inform the recipient both orally and in writing that he return to the prescriber for insertion of the lens, instruction on lens insertion and care, and to ascertain the accuracy and suitability of the prescribed lens. The statement shall also state that if the recipient does not return to the prescriber after delivery of the lens for the purposes stated above, the prescriber shall not be responsible for any damages or injury resulting from the prescribed lens, except that this sentence does not apply if the dispenser and the prescriber are the same person.

Prescriptions filled pursuant to this section shall be kept on file by the prescriber and the person filling the prescription for at least 24 months after the prescription is filled."

Sec. 2. G.S. 90-237 is rewritten as follows:

"§ 90-237. Qualifications for dispensing opticians.—In order to be issued a license as a registered licensed optician by the North Carolina State Board of Opticians, the applicant:

(1) Shall not have violated this Article or the rules of the board;

(2) Shall be at least 18 years of age and a high school graduate or equivalent;

(3) Shall have passed an examination conducted by the board to determine his or her fitness to engage in the business of a dispensing optician; and

(4) Shall have completed a six-month internship by working full time under the supervision of a licensed optician, optometrist or physician trained in ophthalmology, in order to demonstrate proficiency in the areas of measurement of the face, and fitting and adjusting glasses and frames to the face, lens recognition, lens design, and prescription interpretation."

Sec. 3. G.S. 90-238 is rewritten as follows:

"§ 90-238. North Carolina State Board of Opticians created; appointment and qualification of members.—There is hereby created a North Carolina State Board of Opticians whose duty it shall be to carry out the purposes and enforce the provisions of this Article. The board shall consist of seven members appointed by the Governor as follows:
(1) Five licensed dispensing opticians, each of whom shall serve three-year terms;

(2) Two residents of North Carolina who are not licensed as dispensing opticians, physicians, optometrists, who shall serve three-year terms.

Each member of the board shall serve until his successor is appointed and qualifies; provided that no person shall serve on this board for more than two complete consecutive terms. Each member of the board, before entering upon his duties, shall take all oaths prescribed for other State officers in the manner provided by law, which oaths shall be filed in the office of the Secretary of State. The Governor, at his option, may remove any member of the board for good cause shown, may appoint members to fill unexpired terms, and must make optician appointments from a list of three nominees for each vacancy submitted by the board as a result of an election conducted by the board in May of each year and open to all licensees."

Sec. 4. G.S. 90-239 is amended on lines 3 and 4 by deleting the words "one of its members as president and one as secretary and treasurer" and inserting in lieu thereof the words "from among its members a chairman, vice-chairman, a secretary and a treasurer. The board may combine the offices of secretary and treasurer".

Sec. 5. G.S. 90-239 is amended on line 6 by inserting after the language "duties," the language "may employ agents to carry out the purposes of this Article,"

Sec. 6. G.S. 90-239 is amended on line 9 by deleting the word "president" and inserting in lieu thereof the word "chairman".

Sec. 7. G.S. 90-239 is amended at the end of the 9th line by inserting a new sentence as follows: "Special meetings may be called by the chairman or upon request of three members."

Sec. 8. G.S. 90-240 is rewritten as follows:

"§90-240. Examination.—(a) Applicants to take the examination for dispensing opticians shall be high school graduates or the equivalent who:

(1) have successfully completed a two-year course of training in an accredited school of opticianry with a minimum of 1600 hours or
(2) have completed three and one-half years of apprenticeship while registered with the board under a licensed dispensing optician, with time spent in a recognized school credited as part of the apprenticeship period or
(3) have completed three and one-half years of apprenticeship while registered with the board under the direct supervision of an optometrist or a physician specializing in ophthalmology, provided the supervising optometrist or physician elects to operate the apprenticeship under the same requirements applicable to dispensing opticians.

(b) The examination shall be confined to such knowledge as is reasonably necessary to engage in preparation and dispensing of optical devices and shall include the following:

(1) The skills necessary for the proper analysis of prescriptions;
(2) The skills necessary for the dispensing of eyeglasses and contact lenses; and
(3) The processes by which the products offered by dispensing opticians are manufactured.
(c) The examination shall be given at least twice each year at sites and on dates that are publicly announced 60 days in advance.

(d) Each applicant shall, upon request, receive his or her examination score on each section of the examination.

(e) The board may include as part or all of the examination, any nationally prepared and recognized examination, and will periodically review and validate any exam in use by the board. The board will credit an applicant with the score on any national test taken in the last three years to the extent such test may be included in the North Carolina exam.

(f) An applicant for admission on the basis of apprenticeship shall have worked full time under the supervision of a licensed dispensing optician, optometrist or physician trained in ophthalmology. An apprentice shall have obtained experience in ophthalmic fabricating and manufacturing techniques and processes for no less than six months and shall have gained experience in the other activities defined as dispensing herein."

Sec. 9. G.S. 90-241 is rewritten as follows:

"§ 90-241. Waiver of written examination requirements.—(a) The board shall grant a license without examination to any applicant who holds a currently valid license as a dispensing optician issued by another state, is in good standing in such other state, has engaged in practice in such other state as a licensee for four years immediately preceding the application in this State, is at least 18 years of age, and has not violated this Article or the rules of the board.

(b) The board will grant admission to the next examination and grant license upon attainment of a passing score on the examination to persons from other states who are not licensed but who have worked in opticianry for four years performing tasks equivalent to the North Carolina apprenticeship, and who meet the requirements of G.S. 90-237, subsections 1, 2 and 3.

(c) Any person desiring to secure a license under this section shall make application therefor in the manner and form prescribed by the rules and regulations of the board and shall pay the fee prescribed in G.S. 90-246.

(d) Upon receipt of the application described in subsection (c) above, the board may issue a temporary license to engage in opticianry in this State. Persons issued a temporary license under this subsection may engage in opticianry in this State for not more than 60 days while awaiting a final decision on licensure by the board. The board shall make a final decision on licensure under this subsection not later than 60 days after receipt of the initial application. If the board does not approve licensure under this subsection, the applicant, if operating under a temporary license, shall immediately surrender it to the board and cease the practice of opticianry in this State."

Sec. 10. G.S. 90-242 is repealed.

Sec. 11. G.S. 90-243 is rewritten to read as follows:

"§ 90-243. Registration of places of business, apprentices.—The board may adopt rules requiring, as a condition of dispensing, the registration of places of business where ophthalmic dispensing is engaged in, and for registration of apprentices and interns who are working under direct supervision of a licensed optician. The board may also require that any information furnished to it as required by law or regulation be furnished under oath."

Sec. 12. G.S. 90-244 is rewritten as follows:

"§ 90-244. Display, use, and renewal of license of registration.—(a) Every person to whom a license has been granted under this Article shall display the
same in a conspicuous part of the office or establishment wherein he is engaged as a dispensing optician. The board may adopt regulations concerning the display of registrations of places of business and of apprentices and interns.

(b) A license issued by the board automatically expires on the 1st day of January of each year. A license may be reinstated without penalty during the month following expiration. After the end of the month, a license may be reinstated by payment of a penalty of five dollars ($5.00) per month not to exceed the license fee itself. Licenses which remain expired two years or more may not be reinstated."

Sec. 13. G.S. 90-246 is rewritten as follows:

"§ 90-246. Fees.—In order to provide the means of administering and enforcing the provisions of this Article and the other duties of the North Carolina State Board of Opticians, the board is hereby authorized to charge and collect fees established by its rules and regulations not to exceed the following:

(1) Each examination $100.00
(2) Each initial license 10.00
(3) Each renewal of license 60.00
(4) Each license issued to a practitioner of another state to practice in this State 75.00
(5) Each registration of an optical place of business 20.00
(6) Each application for registration as an opticianry apprentice or intern, and renewals thereof 20.00
(7) Temporary license issued pursuant to G.S. 90-241(d) 20.00."

Sec. 14. G.S. 90-247 is repealed.

Sec. 15. G.S. 90-248 is rewritten as follows:

"§ 90-248. Compensation and expenses of board members and secretary.—Each member of the board shall receive for his or her services for time actually in attendance upon board meetings and affairs of the board only, the amount of per diem provided by G.S. 138-5 and shall be reimbursed for subsistence, mileage and necessary expenses incurred in the discharge of such duties at the same rates as set forth in G.S. 138-6 and G.S. 138-7."

Sec. 16. G.S. 90-249 is rewritten as follows:

"§ 90-249. Powers of the board.—(a) The board shall have the power to make rules and regulations, not inconsistent with this Article and the laws of the State of North Carolina, with respect to the following areas of the business of opticianry in North Carolina:

(1) Misrepresentation to the public;
(2) Baiting or deceptive advertising;
(3) Continuing education of licensees;
(4) Location of registrants in the State;
(5) Registration of established optical places of business, provided no rule restricting type or location of a business may be enacted;
(6) Requiring photographs for purposes of identification of persons subject to this Article;
(7) Content of licensure examination and re-examination;
(8) Revocation, suspension, and reinstatement of license and reprimands;
(9) Fees within the limits of G.S. 90-246;
(10) Accreditation of schools of opticianry;
(11) Registration and training of apprentices and interns;
(12) License without examination and issuance of temporary license.

(b) The board shall have the power to revoke, suspend or issue a reprimand with regard to any license granted by it under this Article for misconduct, gross negligence, incompetence, or violation of this Article or the rules of the board promulgated hereunder. It shall be grounds for revocation of a license to advertise in any manner which conveys or intends to convey the impression to the public that the eyes are examined by persons licensed under this Article. Other than as expressly provided in this Article, the board shall neither adopt nor enforce any rule, regulation or policy which prohibits advertising.

(c) Any person whose license has been revoked for any cause may, after the expiration of 90 days, and within two years from the date of revocation, apply to the board to have the same reinstated, and upon a showing satisfactory to the board, the license may be restored to such person.

(d) The procedure for revocation and suspension of a license or refusal to grant license or permission to sit for the examination shall be in accordance with the provisions of Chapter 150A of the General Statutes."

Sec. 17. G.S. 90-252 is rewritten as follows:

"§ 90-252. Engaging in practice without license.—Any person, firm or corporation owning, managing or conducting a store, shop or place of business and not having in its employ and on duty, during all hours in which acts constituting the business of opticianry are carried on, a licensed dispensing optician engaged in supervision of such store, office, place of business or optical establishment, or representing to the public, by means of advertisement or otherwise or by using the words, 'optician, licensed optician, optical establishment, optical office, ophthalmic dispenser', or any combination of such terms within or without such store representing that the same is a legally established optical place of business duly licensed as such and managed or conducted by persons holding a dispensing optician's license, when in fact such permit is not held by such person, firm or corporation, or by some person employed by such person, firm or corporation and on the premises and in charge of such optical business, shall be guilty of a misdemeanor and may, upon conviction, be fined not less than one hundred dollars ($100.00) or be imprisoned for not more than 12 months, or both, in the discretion of the court."

Sec. 18. G.S. 90-253 is rewritten as follows:

"§ 90-253. Exemptions from Article.—Nothing in this Article shall be construed to apply to optometrists, or physicians trained in ophthalmology who are authorized to practice under the laws of this State, or to an unlicensed person working within the practice and under the direct supervision of the optometrist or physician trained in ophthalmology. An apprentice or intern registered with the board and working under direct supervision of a licensed optician, optometrist or physician trained in ophthalmology will not be deemed to have engaged in opticianry by reason of performing acts defined as preparation and dispensing, provided the apprentice is in compliance with the rules of the board respecting the training of apprentices.

As used in this section, 'supervision' means the provision of general direction and control through immediate personal on-site inspection and evaluation of all work constituting the practice of opticianry and the provision of consultation
and instruction by a licensed dispensing optician, except that on site supervision
is not required for minor adjustments or repairs to eyeglasses."

Sec. 19. G.S. 90-254 is amended by addition of a second paragraph as
follows:
"Whenever it appears to the board that any person, firm or corporation is
violating any of the provisions of this Article or of the rules and regulations of
the board promulgated under this Article, the board may apply to the superior
court for a restraining order and injunction to restrain the violation; and the
superior courts have jurisdiction to grant the requested relief, irrespective or
whether or not criminal prosecution has been instituted or administrative
sanctions imposed by reasons of the violation. The venue for actions brought
under this subsection shall be the superior court of any county in which such
acts are alleged to have been committed or in the county where the defendants
in such action reside."

Sec. 20. G.S. 90-255 is rewritten as follows:
"§ 90-255. Rebates.—It shall be unlawful for any person, firm or corporation
to offer or give any gift or premium or discount, directly or indirectly, or in any
form or manner participate in the division, assignment, rebate or refund of fees
or parts thereof with any ophthalmologist, optometrist, or wholesaler, for the
purpose of diverting or influencing the freedom of choice of the consumer in the
selection of an ophthalmic dispenser."

Sec. 21. G.S. 143-34.12 is amended by deleting line 13, which reads as
follows:
"Chapter 90, Article 17, entitled 'Dispensing Opticians'."

Sec. 22. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of
June, 1981.

H. B. 299

CHAPTER 601

AN ACT TO AMEND CHAPTER 93D OF THE GENERAL STATUTES
RELATING TO HEARING AID DEALERS AND FITTERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 93D-2 is amended by deleting from line 3 the words "or
apprentice license" and inserting before the period in line 4 the words "or an
apprentice working under the supervision of a board licensee."

Sec. 2. G.S. 93D-3(a) is amended by rewriting the last sentence of the
first paragraph as follows: "All appointments made on or after July 1, 1981,
shall be for terms of three years."

G.S. 93D-3(a) is further amended by rewriting line 10 to read as follows:
"One member shall be appointed by the Governor who shall be a physician."

G.S. 93D-3(a) is further amended on line 12 by deleting the word "four"
and substituting therefor the word "three".

G.S. 93D-3(a) is further amended by rewriting the last sentence of the
third paragraph to read: "All appointments made on or after July 1, 1981, shall
be for a term of three years."

G.S. 93D-3(a) is further amended by inserting two new paragraphs between
lines 16 and 17 to read as follows:
"One member shall be appointed by the Governor to represent the interest of
the public at large. This member shall have no ties to the hearing aid business
nor shall he be an audiologist. The Governor shall appoint the public member not later than July 1, 1981, to serve a term of three years.

All board members serving on June 30, 1981, shall be eligible to complete their respective terms. No member appointed to a term on or after July 1, 1981, shall serve more than two complete consecutive terms."

G.S. 93D-3(a) is further amended by rewriting lines 19 and 20 to read: "must be appointed from the same category as their predecessor in office. The members of the Board, before".

Sec. 3. G.S. 93D-3(b) is amended by adding a new sentence at the end thereof to read as follows: "The board is authorized to employ an executive secretary and to provide such assistance as may be required to enable said board to properly perform its duties."

Sec. 4. G.S. 93D-3(c) as it appears in the 1979 Cumulative Supplement to Volume 2C is amended by deleting the phrase "and apprentice licenses" in subsection (5).

G.S. 93D-3(c) is further amended in subsection (12) by deleting the phrase "an apprentice license and", by inserting at the beginning of line 2 of the subsection the words "for registered apprentices and", and by deleting the period at the end of the subsection and substituting therefor a semicolon.

G.S. 93D-3(c) as it appears in the 1979 Cumulative Supplement to Volume 2C is further amended by adding at the end a new subsection to read as follows: "(13) Register persons serving as apprentices as set forth in G.S. 93D-9."

Sec. 5. G.S. 93D-3(d) is amended by inserting on line 4 of the last paragraph the words "and apprentices" following the two uses of the word "licensees" on that line.

Sec. 6. G.S. 93D-4 is amended by adding a new sentence at the end thereof to read as follows: "Actions under this section shall be commenced in the judicial district in which the respondent resides or has his principal place of business."

Sec. 7. G.S. 93D-5(a) is amended on line 3 by deleting the words "or apprentice license" and by adding after the word "Board" and before the period the words "or is an apprentice working under the supervision of a licensee".

G.S. 93D-5(a) is further amended in subsection (2) by deleting the number "21" and inserting the number "18", and by deleting the phrase beginning with the word "provided" and ending with "license."

Sec. 8. G.S. 93D-5(c) as it appears in the 1979 Cumulative Supplement to Volume 2C is rewritten to read as follows:

"(c) No license shall be issued to any person until he has served as an apprentice as set forth in G.S. 93D-9 for a period of at least one year; provided, that this subsection shall not apply to those persons qualified under G.S. 93D-6 nor to those persons holding Masters degrees in Audiology who have undergone 250 hours of supervised activity fitting and selling hearing aids under the direct supervision of a licensed hearing aid dealer approved by the board, or have met the licensure requirements under Article 22 of Chapter 90 of the General Statutes and have worked full time for one year fitting and selling hearing aids in the office of and under the direct supervision of an otolaryngologist and have participated in 250 hours of board supervised continuing professional education in fitting hearing aids."
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Sec. 9. G.S. 93D-8(a) is amended on line 3 by inserting a comma after the word “G.S. 93D-5(a)” and by deleting the word “except” and inserting the word “except”.

G.S. 93D-8(a) is further amended by deleting the words “and 93D-7” on line 4.

Sec. 10. The title of G.S. 93D-9 is rewritten to read “Registration of apprentices”.

Sec. 11. G.S. 93D-9(a) is rewritten to read as follows: “Any person age 17 or older may apply to the board for registration as an apprentice. Each such applicant must be sponsored by a hearing aid dealer and fitter licensed by the board.”

Sec. 12. G.S. 93D-9(b) is amended on line 1 by deleting the words “as provided under G.S. 93D-5(a)”. G.S. 93D-9(b) is further amended by rewriting line 2 to read as follows: “accompanied by a fee of fifty-five dollars ($55.00), the board may register the”. G.S. 93D-9(b) is further amended on line 3 by deleting the words “apprenticeship license” and substituting therefor the words “applicant as an apprentice.”.

G.S. 93D-9(c) is amended on line 1 by deleting the words “apprenticeship license shall be issued” and substituting therefor the words “apprentice shall be registered”.

Sec. 13. G.S. 93D-9(d) is amended on line 1 by deleting the number “21” and inserting the number “18”. G.S. 93D-9(d) is further amended on lines 1 and 2 by deleting the words “holds an apprenticeship license issued” and substituting therefor the words “is registered as an apprentice”. G.S. 93D-9(d) is further amended by deleting the words “apprenticeship license” on line 3 and substituting therefor the word “registration.”.

Sec. 14. G.S. 93D-9(e) is amended on line 1 by deleting the words “holds an apprenticeship license” and substituting therefor the words “is registered as an apprentice”. G.S. 93D-9(e) is further amended by rewriting lines 5 and 6 to read as follows: “registration. The fee for renewal of apprenticeship registration shall be fifty dollars ($50.00).”

Sec. 15. G.S. 93D-9(f) is rewritten to read as follows: “The Board shall adopt rules and regulations implementing initial and renewal registration of apprentices.”

Sec. 16. G.S. 93D-10 is amended by rewriting the first sentence to read as follows: “The Board shall register each apprentice and each person to whom it grants a license.” G.S. 93D-10 is further amended on line 3 by substituting the word “apprentices” for the word “apprentice” and by deleting the word “licensees” on line 4. G.S. 93D-10 is further amended on line 5 by deleting the words “apprentice license” and substituting therefor the words “apprenticeship registration”.

Sec. 17. G.S. 93D-11 as it appears in the 1979 Cumulative Supplement to Volume 2C is amended on line 1 by inserting the word “licensed” between the words “Every” and “person”.

Sec. 18. G.S. 93D-12 is amended on lines 2 and 4 by deleting the words “apprentice license” and substituting therefor the words “apprenticeship registration”.

Sec. 19. The title of G.S. 93D-13 is amended by deleting the words “and apprentice license”. G.S. 93D-13(a) is amended on lines 2, 3, and 19 by deleting the words “or apprentice license”.

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G.S. 93D-13(a) is further amended on line 19 by deleting the word “and” and on line 20 by deleting the number “(11)” and substituting therefor the number “(12)”. G.S. 93D-13(a) is further amended by inserting a new subsection between lines 19 and 20 to read as follows: “(11) Failure by a licensee to properly supervise an apprentice under his supervision, and”.

Sec. 20. G.S. 93D-15 is amended on line 4 by deleting the words “apprentice license” and substituting therefor the words “apprenticeship registration”.

Sec. 21. G.S. 143-34.13 is amended by deleting lines 10 and 11 which read as follows: “Chapter 93D, entitled ‘North Carolina State Hearing Aid Dealers and Fitters Board’.”

Sec. 22. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 17th day of June, 1981.

H. B. 308

CHAPTER 602

AN ACT TO ADD CONTRACTUAL SERVICES TO THE LIST OF RESPONSIBILITIES OF THE PURCHASE AND CONTRACT DIVISION AND TO INCREASE THE FORMAL BID REQUIREMENT TO FIVE THOUSAND DOLLARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-51 is amended by inserting after the word “materials” appearing in line 4 thereof the words and punctuation “, contractual services”.

Sec. 2. G.S. 143-52 is amended by rewriting the first sentence to read as follows: “As feasible, the Secretary of Administration will compile and consolidate all such estimates of supplies, materials, equipment and contractual services needed and required by State departments, institutions and agencies to determine the total requirements of any given commodity.”

Sec. 3. G.S. 143-52 is further amended by deleting the words and figures “two thousand five hundred dollars ($2,500)” in the second sentence, and inserting in lieu thereof the words and figures “five thousand dollars ($5,000)”.

Sec. 4. G.S. 143-53(2) is amended by deleting the words and figures “two thousand five hundred dollars ($2,500)” and inserting in lieu thereof “five thousand dollars ($5,000)”.

Sec. 5. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 17th day of June, 1981.
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S. B. 146  CHAPTER 603

AN ACT TO REQUIRE THE OFFICE OF STATE BUDGET AND MANAGEMENT TO STUDY RULES COVERING STATE CONSTRUCTION.

Whereas, the Legislative Research Commission Study Committee on Design, Construction, and Inspection included in its report to the 1981 Session of the General Assembly a recommendation that the Office of State Management and Budget be required to study the rules covering State construction; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The Office of State Budget and Management is directed to study the rules covering State construction and ways of establishing better coordination among the agencies involved in order to expedite the construction process.

Sec. 2. The Office of State Budget and Management is directed to report its findings to the 1981 General Assembly, Second Session 1982, on or before its convening date; or if there is no 1982 Session, to the 1983 General Assembly on or before its convening date.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of June, 1981.

S. B. 448  CHAPTER 604

AN ACT TO ALLOW THE NORTH CAROLINA STATE HIGHWAY PATROL AND THE NORTH CAROLINA DEPARTMENT OF CORRECTION TO SELL, TRADE OR OTHERWISE DISPOSE OF GUNS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-63.1, as the same is found in Volume 3C of the General Statutes, 1978 Replacement, is hereby amended by adding a new subsection (d) to read as follows:

“(d) Notwithstanding the provisions of this section, but subject to the provisions of G.S. 20-187.2, the North Carolina State Highway Patrol and the North Carolina Department of Correction are authorized to sell, trade, or otherwise dispose of any or all surplus weapons it possesses to any federally licensed firearm dealers. The sale, trade, or disposal of these weapons shall be in a manner prescribed by the Department of Administration. Any monies or property obtained from the sale, trade, or disposal shall go to the General Fund.”

Sec. 2. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 17th day of June, 1981.
S. B. 538  CHAPTER 605

AN ACT TO ESTABLISH GUIDELINES FOR THE ACCREDITATION OF LAW ENFORCEMENT AGENCIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-480(c)(2) is amended by adding a new paragraph to the end to read:

"The Law Enforcement Planning Committee shall maintain contact with the National Commission on Accreditation for Law Enforcement Agencies, assist the National Commission in the furtherance of its efforts, adapt the work of the National Commission by an analysis of law enforcement agencies in North Carolina, develop standards for the accreditation of law enforcement agencies in North Carolina, make these standards available to those law enforcement agencies which desire to participate voluntarily in the accreditation program, and assist participants to achieve voluntary compliance with the standards."

Sec. 2. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 17th day of June, 1981.

H. B. 749  CHAPTER 606

AN ACT TO ADOPT A "MODEL RIDE-SHARING LAW" AND TO AMEND THE WAGE AND HOUR LAW, MOTOR VEHICLES, TAXATION AND TAXI REGULATIONS TO PROMOTE PUBLIC AND PRIVATE RIDE-SHARING ARRANGEMENTS.

The General Assembly of North Carolina enacts:

Section 1. Article 2B of Chapter 136 of the General Statutes is hereby amended by the addition of the following:

"§ 136-44.21. Ridesharing arrangement defined.—Ridesharing arrangement means the transportation of persons in a motor vehicle where such transportation is incidental to another purpose of the driver and is not operated or provided for profit. The term shall include ridesharing arrangements such as carpools, vanpools and buspools.

"§ 136-44.22. Workers' Compensation Act does not apply to ridesharing arrangements.—Chapter 97 of the General Statutes shall not apply to a person injured while participating in a ridesharing arrangement between his or her place of residence and a place of employment or termini near such place, provided that if the employer owns, leases or contracts for the motor vehicle used in such an arrangement, Chapter 97 of the General Statutes shall apply.

"§ 136-44.23. Ridesharing arrangement benefits are not income.—Any benefits, other than salary or wages, received by a driver or a passenger while in a ridesharing arrangement shall not constitute income for the purposes of Article 4 of Chapter 105 of the General Statutes.

"§ 136-44.24. Municipal licenses and taxes.—No county, city, town or other municipal corporation may require a business license for a ridesharing arrangement, nor may they require any additional tax, fee, or registration on a vehicle used in a ridesharing arrangement.

"§ 136-44.25. Wage and Hour Act.—The provisions of Article 2A of Chapter 95 of the General Statutes of North Carolina shall not apply to an employee

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while participating in any ridesharing arrangement as defined in G.S. 136-44.21, as provided in G.S. 95-25.14(b)(5).

§ 136-44.26. Use of public motor vehicles for ridesharing.—Motor vehicles owned or operated by any State or local agency may be used in ridesharing arrangements for public employees, provided the public employees benefiting from said ridesharing arrangements shall pay fees which shall cover all capital operating costs of the ridesharing arrangements."

Sec. 2. G.S. 95-25.14(b) is amended by adding a new subsection to read:

"(5) Any person while participating in a ridesharing arrangement as defined in G.S. 136-44.21."

Sec. 3. G.S. 20-4.01(27)b is rewritten to read:

"b. For Hire Passenger Vehicles. Vehicles Transporting Persons For Compensation. This classification shall not include vehicles operated as ambulances, vehicles operated by the owner where the costs of operation are shared by the passengers, vehicles operated on behalf of any employer pursuant to a ridesharing arrangement as defined in G.S. 136-44.21, vehicles transporting students for the public school system under contract with the State Board of Education or vehicles leased to the United States of America or any of its agencies on a nonprofit basis."

Sec. 4. G.S. 105-141(b) is amended by adding a new subdivision to read:

"(28) Money and other benefits, other than salary or wages, received by a driver or passenger while in a ridesharing arrangement as defined by G.S. 136-44.21."

Sec. 5. G.S. 160A-304(a) is amended by adding the following new language immediately after the second sentence:

"The ordinances may also specify the types of taxicab services which are legal in the municipality; provided, that in all cases shared-ride services as well as exclusive-ride services shall be legal. Shared-ride service is defined as a taxi service in which two or more persons with either different origins or with different destinations, or both, occupy a taxicab at one time. Exclusive-ride service is defined as a taxi service in which the first passenger or party requests exclusive use of the taxicab."

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of June, 1981.

H. B. 879

CHAPTER 607

AN ACT TO CLARIFY AND UPDATE THE WEIGHTS AND MEASURES ACT OF 1975.

The General Assembly of North Carolina enacts:

Section 1. G.S. 81A-29 is amended by adding a new subdivision (6) to read:

"(6) Manufacture, use or possess a counterfeit seal, tag, mark, certificate, label or decal representing, imitating or copying the same issued by the commissioner under this act."

Sec. 3. Chapter 81A of the General Statutes is amended by adding a new section to read:

"§81A-50.1. Purpose.—This Article licenses and regulates public weighmasters in order to ensure accurate quantities of products upon sale to purchasers."

Sec. 4. G.S. 81A-51 is rewritten to read:

"§81A-51. Definitions.—For purposes of this Article, the following words, terms and phrases are defined as follows:

(1) 'Board' means North Carolina Board of Agriculture.
(2) 'Commissioner' means the North Carolina Commissioner of Agriculture or his designated agent.
(3) 'Department' means the North Carolina Department of Agriculture.
(4) 'Product' means any product, commodity or article.
(5) 'Public weighmaster' means any person who shall weigh, measure or count, or who shall ascertain from a weighing, measuring or recording device for any other person and declare the weight to be the accurate weight of the product upon which the purchase, sale or exchange is based, and receive compensation for the act.
(6) 'Weigh' means weigh, measure, count, read or record.
(7) 'Weight' means weight, measure, count, reading or recording."

Sec. 4. Chapter 81A of the General Statutes is amended by rewriting G.S. 81A-52, G.S. 81A-53, G.S. 81A-54 and G.S. 81A-55 to read:

"§81A-52. License.—All public weighmasters shall be licensed. Any person not less than 18 years of age who wishes to be a public weighmaster shall apply to the Department on a form provided by the Department. The Board may adopt rules for determining the qualifications of the applicant for a license. Public weighmasters shall be licensed for a period of one year beginning the first day of July and ending on the thirtieth day of June, and a fee of ten dollars ($10.00) shall be paid for each person licensed at the time of the filing of the application.

"§81A-53. Certificates of weight.—All public weighmasters shall issue certificates of weight, measure, count, reading or recording on forms approved by the Commissioner and shall enforce the provisions of this Chapter and all rules and regulations promulgated thereunder without compensation from the State. Each certificate issued shall indicate the date on which a product is weighed, counted, read or recorded. A certificate issued by a public weighmaster shall be considered the accurate weight of a product at the time the product is put into the natural channels of trade, with the qualification that reasonable variations or tolerances shall be permitted as established by rules and regulations enacted pursuant to this Chapter. If any person questions the accuracy of the weight of any product for which a certificate has been issued, a complaint shall be made to the public weighmaster who issued the certificate or to the Commissioner before the product is moved from the city, town or community where the certificate was issued. The product shall be reweighed by the public weighmaster issuing the certificate or by the Commissioner, if the product is kept in accordance with G.S. 81A-58. If, upon reweighing, a difference in excess of the tolerance allowed by the Chapter is found in the original weight, the cost of reweighing shall be borne by the public weighmaster responsible for issuing the faulty certificate. Otherwise, the cost shall be borne by the complainant.
§ 81A-54. Official seal of the public weighmaster.—It shall be the duty of every public weighmaster to obtain from the Department an official seal for the sum of five dollars ($5.00), inscribed with the following words: 'North Carolina Public Weighmaster' and any other design or legend the Commissioner considers necessary. The seal shall be stamped or impressed on every certificate issued pursuant to this Article. The weighers of tobacco in leaf tobacco warehouses may use, instead of the seal, their signatures in ink or other indelible substance posted in a conspicuous and accessible place in the warehouse. All seals remain the property of the State and shall be returned to the Commissioner upon termination of duties as a public weighmaster.

§ 81A-55. Violations by public weighmasters; by others; penalties.—(a) Any public weighmaster who refuses to issue a certificate as prescribed by this Article, or who issues a certificate giving a false weight, or who misrepresents the weight to any person, or who otherwise violates any provisions of this Article or the rules and regulations pursuant to this Article, may have his license revoked, suspended or terminated by the Commissioner.

(b) The following acts by other persons are also violations of this Article:

1. requesting a public weighmaster to weigh a product inaccurately;
2. requesting an inaccurate certificate prescribed by this Article;
3. impersonating a public weighmaster;
4. erasing, changing or altering any certificate issued by a public weighmaster;
5. increasing or decreasing the weight of a product for the purpose of deception;
6. violating any other provision of this Article."

Sec. 5. Chapter 81A of the General Statutes is amended by rewriting G.S. 81A-58 and G.S. 81A-59 to read:

§ 81A-58. Duty of custodian of product.—If any product is to be offered for sale, or is sold, and is weighed or measured or counted by any public weighmaster and a certificate is issued prior to sale or acceptance of the product by the purchaser, or if any product is offered for sale, sold or delivered pending the weighing, measuring or counting of the product by any public weighmaster and the issuance of a certificate, the person who is in custody of the product shall keep, protect and prevent any increase or decrease in weight in the time intervening between the weighing and the issuance of the certificate and the sale, and the time intervening between the sale and the presentation of the product to the weighmaster for weighing, measuring or counting and the issuance of a certificate. Any loss sustained in the weight of the product while in custody shall be borne by the custodian.

§ 81A-59. Weighing tobacco.—All leaf tobacco offered for sale in a leaf tobacco warehouse in North Carolina shall remain in the custody of the warehouse operator from and after the time it is weighed by the public weighmaster until it is sold or the bid is rejected by the owner."

Sec. 6. Chapter 81A is amended by rewriting G.S. 81A-61 to read:

§ 81A-61. Approval of devices used.—When making a weight determination, a public weighmaster shall use a weighing device that is of a type suitable for the weighing of the product to be weighed and that has been tested and approved for use by the Commissioner within a period of 12 months immediately preceding the date of the weighing."

Sec. 7. This act is effective upon ratification.
H. B. 882  CHAPTER 608
AN ACT TO AMEND THE CHARTER OF THE CITY OF WINSTON-SALEM BY ADDING PROVISIONS RELATING TO FAIR HOUSING.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Winston-Salem, Chapter 232, Private Laws of 1927, as amended, is amended by adding a new Article, designated "Article XII" and to appear as follows:

"ARTICLE XII.

"Fair Housing.

"Sec. 45. Equal Housing. The Board of Aldermen shall have the power to adopt ordinances prohibiting discrimination on the basis of race, color, sex, religion, national origin, or handicap in real estate transactions. Such ordinances may regulate or prohibit any act, practice, activity or procedure related directly or indirectly, to the sale or rental of public or private housing, which affects or may tend to affect the availability or desirability of housing on an equal basis to all persons; may provide that violations constitute a criminal offense; may subject the offender to civil penalties; and may provide that the City may enforce the ordinances by application to the General Court of Justice, for appropriate legal and equitable remedies, including mandatory and prohibitory injunctions and orders of abatement, attorney's fees and punitive damages, and the court shall have jurisdiction to grant such remedies; provided, that nothing herein shall be construed as a grant of authority to the Board of Aldermen to adopt any ordinance which provides for civil penalties that are adjudicated by any body other than the General Court of Justice.

"Sec. 46. Exemptions. Any ordinance enacted pursuant to this Article may provide for exemption from its coverage of:

(1) The sale or rental of any single-family house by an owner: Provided that such private individual owner does not own or have any interest in more than three such single-family houses at any one time: Provided further, that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sales or who was not the most recent resident of such house prior to such sale, the exemption granted may only apply with respect to one such sale within any 24-month period: Provided further, that any single family house under this exemption may not be sold or rented (a) with the use in any manner of the sales or rental facilities of any person in the business of selling or renting dwellings or the sales or rental services of any real estate broker, agent, salesman or of any employee of any such broker, agent or salesman or (b) with the publication, or posting of any advertisement in violation of the ordinance; but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstractors, title companies and other such professional assistance as necessary to perfect or transfer the title.

(2) The rental of a housing accommodation in a building containing accommodations for not more than four families living independently of each other if the owner or a member of his family resides in one of those accommodations.

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(3) The rental of a room or rooms in a housing accommodation by an individual if he or a member of his family resides there.

(4) With respect to discrimination based on sex, the rental or leasing of housing accommodations in single-sex dormitory property.

(5) With respect to discrimination based on religion, to housing accommodations owned and operated for other than a commercial purpose by a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, the sale, rental or occupancy of such housing accommodation being limited or preference being given to persons of the same religion, unless membership in such religion is restricted because of race, color, national origin, or sex.

(6) Any person, otherwise subject to its provisions, who adopts and carries out a plan to eliminate present effects of past discriminatory practices or to assure equal opportunity in real estate transactions, if the plan is part of a conciliation agreement entered into by that person under the provisions of the ordinance or the Federal 'Fair Housing Act,' (42 U.S.C.A. §§ 3601-3619) or is voluntary and is consistent with the purposes thereof.

(7) A private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose limiting the rental or occupancy of such lodgings to its members or giving preference to its members.

"Sec. 47. Enforcement. (a) The Board of Aldermen may create or designate a committee or commission to assume the duty and responsibility of enforcing ordinances adopted pursuant to this Article. Such body may be granted any authority deemed necessary by the Board of Aldermen for the proper enforcement of any fair housing ordinance, including the power to:

(1) Promulgate rules for the receipt, initiation, investigation and conciliation of complaints of violations of the ordinance.

(2) Require answers to interrogatories, the production of documents and things, and the entry upon land and premises in the possession of a party to a complaint alleging a violation of the ordinances; compel the attendance of witnesses under oath or affirmation.

(3) Apply to the General Court of Justice, upon the failure of any person to respond to or comply with a lawful interrogatory, request for production of documents and things, request to enter upon land and premises, or subpoena, for an order requiring such person to respond or comply.

(4) Upon finding reasonable cause to believe that a violation of the ordinances has occurred, to petition, with permission of the Board of Aldermen, the General Court of Justice for appropriate civil relief.

"Sec. 48. Complaints and other records. The Board of Aldermen may provide that neither complaints filed with any committee or Commission pursuant to the ordinances nor the results of that body's investigations, discovery, or attempts at conciliation, in whatever form prepared and preserved, shall be subject to inspection, examination, or copying under the provisions of what is now Chapter 132 of the North Carolina General Statutes.

"Sec. 49. Committee meetings. The Board of Aldermen may provide that the statutory provisions relating to meetings of governmental bodies, presently embodied in Article 33C of Chapter 143 of the North Carolina General Statutes, shall not apply to the activity of any body authorized to enforce the ordinances,
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to the extent that said body is receiving a complaint or conducting an investigation, discovery, or conciliation pertaining to a complaint filed pursuant to the ordinances."

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 18th day of June, 1981.

H. B. 979    CHAPTER 609
AN ACT TO INCLUDE CUSTODIAL EMPLOYEES OF THE DEPARTMENT OF CORRECTION IN THE PROVISIONS FOR COMMUNITY COLLEGE AND TECHNICAL INSTITUTE TUITION WAIVER.

The General Assembly of North Carolina enacts:

Section 1. The third sentence of G.S. 115D-5(b) is amended by inserting immediately after the words "patients in State alcoholic rehabilitation centers" the words "all full-time custodial employees of the Department of Correction".

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 18th day of June, 1981.

H. B. 1019    CHAPTER 610
AN ACT TO REGULATE RENTAL REFERRAL AGENCIES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 66 of the General Statutes is amended by adding a new Article 23 as follows:

"ARTICLE 23.

"Rental Referral Agencies.

"§ 66-135. Definition.—For the purposes of this Article, a 'rental referral agency' is a person or business which offers to assist any person in locating residential rental property in return for any consideration from a prospective tenant.

"§ 66-136. Fees and deposits.—(a) A rental referral agency shall not charge or attempt to collect any fees or other consideration from any prospective tenant except where rental housing is in fact obtained by such person through the assistance of that agency. For the purposes of this Article, such housing is obtained when the prospective tenant has contracted to rent the property.

(b) Deposits to be applied toward fees may be required by a rental referral agency pursuant to a written contract which includes provisions stating:

(1) the specifications of housing sought by the prospective tenant, including maximum rent, desired lease period, geographic area, number of bedrooms required, number of children to be housed, and number and type of pets;

(2) that the deposit will be refunded within 10 days of the prospective tenant's request should the specified housing not be obtained through the agency's assistance within 30 days of the date of the contract;

(3) that the rental referral agency will maintain a trust account or bond in compliance with G.S. 66-138, and identifying the depository institution or bonding company by name and address.

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§ 66-137. Representations of availability.—(a) A rental referral agency shall not make any representation that any property is available for rent unless availability has been verified by the agency within 48 hours prior to the representation. The availability of property described in media advertisements shall be verified within 48 hours prior to the appearance of the advertisement.

(b) Notations of the time and date of verification and the verifier's identity shall be recorded by the agency and made available for inspection by any person from whom the agency has received a deposit or a fee.

§ 66-138. Bond or trust account required.—(a) Every rental referral agency before beginning business shall establish a trust account with a licensed and insured bank or savings institution located in the State of North Carolina. Each deposit to be applied towards a fee collected under G.S. 66-136(b) shall be placed in the trust account and shall be withdrawn only to refund the deposit to the applicant pursuant to G.S. 66-136(b)(2) or when a fee is earned by the agency as provided in G.S. 66-136(a).

(b) A rental referral agency may elect to post a bond in lieu of the trust account required by this section. The amount of the bond shall at no time be less than the amount that would be required by this section to be held in trust. In no event, however, shall the bond be less than five thousand dollars ($5,000). The rental referral agency shall file the bond with the clerk of the superior court of the county in which its principal place of business is located.

(c) Any person who is damaged by any violation of this Article, or by any breach by the rental referral agency of its contract, may bring an action for the remedies referred to and provided in G.S. 66-139 against the bond or trust account; provided that the aggregate liability of the surety or trustee shall not exceed the amount of the bond or trust account.

(d) Violation of subsections (a) or (b) of this section shall constitute a misdemeanor.

§ 66-139. Remedies.—(a) Any person injured by a violation of this Article, or breach of any obligation created by this Article or contract subject thereto, may bring an action for recovery of damages, including reasonable attorneys' fees.

(b) The violation of any provision of this Article shall constitute an unfair act or practice under G.S. 75-1.1.

(c) The remedies provided herein shall be in addition to any other remedies provided by law or equity.

Sec. 2. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 18th day of June, 1981.

H. B. 1025

CHAPTER 611

AN ACT TO AMEND THE MARITAL AND FAMILY THERAPY CERTIFICATION ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-270.53, as the same appears in the 1981 Replacement Volume 2C of the General Statutes of North Carolina, is hereby amended as follows:

a. by rewriting the catch line to read as follows:

“§ 90-270.53. Application for certificate without examination before July 1, 1982.”;
b. by deleting the date "January 1, 1981," wherever it shall appear, and by substituting in its place the date "July 1, 1982;"

c. by inserting at the end of sub-subdivision (1)a., the following sentence:
"In addition, an applicant meets the educational requirements by presenting satisfactory evidence of post-master's or post-doctoral training taken in the field of marital and family therapy or counseling from an educational or training institution or program recognized by the board notwithstanding the fact that such training was taken at a nondegree granting institution or in a nondegree program, provided that such training, by itself or in combination with any training received as part of the program leading to a degree from a recognized educational institution, is the equivalent in content and quality, as defined in the duly adopted rules and regulations of the board, of a master's or doctoral degree in marital and family therapy and counseling."

Sec. 2. G.S. 90-270.54, as the same appears in the 1981 Replacement Volume 2C of the General Statutes of North Carolina, is hereby amended as follows:

a. by rewriting the catch line to read as follows:
"§ 90-270.54, Application for certificate by examination."

b. by amending sub-subdivision (1)a. to insert a new sentence at the end thereof to read as follows:
"In addition, an applicant meets the educational requirements by presenting satisfactory evidence of post-master's or post-doctoral training taken in the field of marital and family therapy or counseling from an educational or training institution or program recognized by the board notwithstanding the fact that such training was taken at a nondegree granting institution or in a nondegree program, provided that such training, by itself or in combination with any training received as part of the program leading to a degree from a recognized educational institution, is the equivalent in content and quality, as defined in the duly adopted rules and regulations of the board, of a master's or doctoral degree in marital and family therapy and counseling."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of June, 1981.

H. B. 1048

CHAPTER 612

AN ACT TO AMEND CHAPTER 157 OF THE 1981 SESSION LAWS TO PERMIT COMMUNITY COLLEGES TO DEPOSIT FUNDS IN SAVINGS AND LOAN ASSOCIATIONS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 157 of the 1981 Session Laws is amended as follows:
(a) G.S. 115D-55(b) is amended by inserting after the word "bank" the following words and punctuation: ": , savings and loan association".

(b) G.S. 115D-56 is amended by inserting after the word "banks" in the first sentence the following words and punctuation: ": , savings and loan associations"; and by inserting after the word "bank" in the second sentence the following words and punctuation: " , savings and loan associations".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of June, 1981.
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H. B. 73  CHAPTER 613

AN ACT TO AMEND G.S. 50-13.4 TO MAKE THE FATHER AND THE MOTHER PRIMARILY LIABLE FOR SUPPORT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 50-13.4 is amended by deleting subsection (b) and substituting a new subsection (b) as follows:

"(b) In the absence of pleading and proof that the circumstances otherwise warrant, the father and mother shall be primarily liable for the support of a minor child, and any other person, agency, organization or institution standing in loco parentis shall be secondarily liable for such support. Such other circumstances may include, but shall not be limited to, the relative ability of all the above-mentioned parties to provide support or the inability of one or more of them to provide support, and the needs and estate of the child. The judge may enter an order requiring any one or more of the above-mentioned parties to provide for the support of the child as may be appropriate in the particular case, and if appropriate the court may authorize the application of any separate estate of the child to his support. However, the judge may not order support to be paid by a person who is not the child's parent or an agency, organization or institution standing in loco parentis absent evidence and a finding that such person, agency, organization or institution has voluntarily assumed the obligation of support in writing. The preceding sentence shall not be construed to prevent any court from ordering the support of a child by an agency of the State or county which agency may be responsible under law for such support."

Sec. 2. This act shall apply to all hearings and trials conducted after the date of ratification and shall not affect the validity of any existing order or judgment.

Sec. 3. G.S. 50-13.4(c) is amended by adding, after the word and comma "parties," in line 4 thereof, the following:

"the child care and homemaker contributions of each party,"

Sec. 4. There is added to Chapter 110 of the General Statutes a new section as follows:

"§ 110-138.1. Duty of judicial officials to assist in support.—Any party to whom child support has been ordered to be paid, and who has failed to receive the ordered support payments for two consecutive months, may make application to a magistrate for issuance of criminal process against the responsible parent for violation of G.S. 14-322. If the magistrate determines that the applicant has failed to receive the ordered support for two consecutive months, and that the responsible parent has willfully neglected or refused to make such payments, he shall make a finding of probable cause and issue criminal process for violation of G.S. 14-322. It shall be the duty of the District Attorney to prosecute such charges according to law. It shall be the duty of the Clerk of Superior Court to assist the applicant in making such application to the magistrate for the issuance of criminal process, and to supply such necessary child support records as are in his possession to the magistrate, District Attorney, and the Court."

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of June, 1981.

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S. B. 383

CHAPTER 614

AN ACT TO MAKE RULEMAKING AND HEARINGS PROVISIONS IN HUMAN RESOURCES LEGISLATION CONSISTENT WITH THE ADMINISTRATIVE PROCEDURE ACT.

Whereas, the North Carolina General Assembly enacted G.S. Chapter 150A, the Administrative Procedure Act, in order to establish a uniform system of administrative procedure for State agencies; and

Whereas, the Department of Human Resources has numerous statutes that prescribe administrative procedures for administrative appeals that predate the Administrative Procedure Act and therefore are inconsistent with the Act; and

Whereas, the Department of Human Resources also has numerous statutes with vague delegation of authority for rulemaking; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 88-23 is amended by rewriting the first sentence to read:

"The State Board of Cosmetic Art Examiners shall have authority to make reasonable rules and regulations for the sanitary management of cosmetic art shops, beauty parlors, hairdressing establishments, cosmetic art schools, colleges, academies and training schools, hereinafter called shops and schools, and to have such rules and regulations enforced."; and is further amended by deleting after the words "said Board" in the third sentence the phrase: "and approved by the Commission for Health Services".

Sec. 2. G.S. 88-28(7) is amended by deleting at the end of the sentence the following phrase: "and approved by the Commission for Health Services".

Sec. 3. G.S. 88-28.1 is amended by rewriting the first sentence to read:

"If it is found that any licensed cosmetologist, cosmetic art shop, or other person subject to the provisions of this Chapter is violating any rules and regulations adopted by the State Board of Cosmetic Art Examiners or any provisions of G.S. 88-28, then the Department of Human Resources, any county or district health director, or the State Board of Cosmetic Art Examiners, shall give notice to the person of the violation and apply to the Superior Court for injunctive relief to restrain such person from continuing such illegal practices."

Sec. 4. G.S. 122-16 and 122-16.1 are repealed.

Sec. 5. Article 7 of G.S. Chapter 143, is amended by adding two new sections to read:

"§ 143-117.1. Department may make ordinances; penalties for violation.—(a) The Secretary of Human Resources, or his designee, may promulgate regulations for State-owned institutions under the jurisdiction of the Department of Human Resources for the regulation and departure of persons in the buildings and grounds of the institutions, and for the suppression of nuisances and disorder. Any ordinances promulgated shall be consistent with G.S. 14-132 and shall be filed in accordance with G.S. 150A, known as the Administrative Procedure Act. Copies of the ordinances shall be posted at the entrance to the grounds and at different places on the grounds.

(b) Any person violating such regulations or ordinances shall, upon conviction, be guilty of a misdemeanor and shall be punishable by a fine, not to exceed five hundred dollars ($500.00), or imprisonment for not more than six months, or both.

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“§ 143-117.2. Motor vehicle laws applicable to streets, alleys and driveways on the grounds of Department of Human Resources institutions, traffic regulations; registration and regulation of motor vehicles.—(a) All the provisions of Chapter 20 of the General Statutes relating to the use of the highways of the State and the operation of motor vehicles thereon are made applicable to the streets, alleys, roads and driveways on the grounds of all State institutions under the jurisdiction of the Department of Human Resources. Any person violating any of the provisions of the Chapter in or on such streets, alleys, roads or driveways shall, upon conviction be punished as prescribed in this section. Nothing herein contained shall be construed as in any way interfering with the ownership and control of the streets, alleys, roads and driveways on the grounds of the State institutions operated by the Department of Human Resources.

(b) The Secretary of Human Resources may promulgate additional rules and regulations consistent with the provisions of Chapter 20, General Statutes of North Carolina, with respect to the use of the streets, alleys, roads and driveways of institutions of the Department of Human Resources, and to establish parking areas on the grounds of the institutions. Based upon a traffic and engineering investigation, the Secretary of Human Resources may also determine and fix speed limits on streets, roads and highways lower than those provided in G.S. 20-141. The Secretary of Human Resources may make reasonable provisions for the towing or removal of unattended vehicles found to be in violation of these rules, regulations and ordinances. All regulations and ordinances promulgated under this subsection shall be filed in accordance with G.S. Chapter 150A, known as the Administrative Procedure Act.

(c) Any person violating these regulations or ordinances shall, upon conviction, be guilty of a misdemeanor, and shall be punishable by a fine, not to exceed fifty dollars ($50.00), or imprisonment, not to exceed 30 days.

(d) The Secretary of Human Resources may promulgate reasonable rules and regulations governing the registration and parking of motor vehicles maintained and operated by employees or their families on the grounds of the institutions, and may in connection with the registration, charge an annual fee.”

Sec. 6. G.S. 122-96 is rewritten to read:

“§ 122-96. Recordation of ordinances and regulations; printing and distribution.—All ordinances, rules and regulations promulgated under this Article shall be filed and made available in accordance with G.S. Chapter 150A, known as the Administrative Procedure Act.”

Sec. 7. G.S. 122-35.41 is amended by rewriting the last two sentences of that section to read:

“An area mental health, mental retardation, and substance abuse authority may appeal for exceptions to the minimum standards to the Secretary of Human Resources. The Secretary or his designee shall conduct an appeal in accordance with G.S. Chapter 150A and present a proposal for decision to the Commission for Mental Health and Mental Retardation and Substance Abuse Services, which shall have the authority to make the final agency decision.”

Sec. 8. G.S. 130-9(e)(1) is rewritten to read:

“§ 130-9(e)(1). The North Carolina Medical Care Commission shall establish standards, adopt rules and regulations for the operation, inspection, and licensing of nursing homes as the same are hereinafter defined.”

Sec. 9. G.S. Chapter 143B is amended by repealing G.S. 143B-142(2)(j).
Sec. 10. G.S. Chapter 143B-165 is amended by adding a new subdivision (10) to read:

“(10) The Commission shall have the power and duty to promulgate rules and regulations for the operation of nursing homes, as defined by G.S. 130-9(e).”

Sec. 11. Chapter 130 is amended by repealing G.S. 130-24, G.S. 130-25, and G.S. 130-26, and is further amended by adding a new section G.S. 130-24.1 to read:

“§ 130-24.1. Adoption by reference.—(a) The Commission for Health Services, may, in its rules and regulations promulgated under authority of this Chapter, adopt by reference any code or parts thereof, any federal regulations or parts thereof, any code, standards, or regulation which has been adopted by any other agency of this State or any agency of the United States or by a generally recognized organization or association.

(b) Any adoption by reference by the Commission for Health Services shall be in accordance with G.S. Chapter 150A, known as the Administrative Procedure Act, including the filing of the adopted material.

(c) Any local board of health may, in its rules and regulations, adopt by reference any code, standard, or regulation which has been adopted by any other agency of this State or any agency of the United States or by a generally recognized association. Copies of any material adopted by reference by a local board of health shall be filed by the local board of health with the Department of Human Resources and the clerk of superior court in the county or counties within the jurisdiction of the local board of health.”

Sec. 12. G.S. 130-108 is rewritten to read:

“§ 130-108. Eyes of newborn to be treated; records.—Any person in attendance upon a case of childbirth shall instill or have instilled immediately upon its birth, in the eyes of the newborn, a solution or medication prescribed and approved by the Commission for Health Services for the purpose of preventing infection of the eyes of the newborn. It is the duty of every person in attendance, or the duty of the institution in which the birth takes place, to prepare such records concerning inflammation of the eyes of the newborn as the Commission for Health Services directs.”

Sec. 13. G.S. 130-110 is rewritten to read:

“§ 130-110. Duties of Commission for Health Services.—It shall be the duty of the Commission for Health Services to promulgate such rules and regulations as are necessary in the interest of the public health for the carrying out of this Article.”

Sec. 14. G.S. 130-112 is amended by the deletion of the phrase “and medications”.

Sec. 15. G.S. 130-201 is amended to read:

“§ 130-201. Rules and regulations.—(a) The Commission for Health Services shall promulgate rules and regulations in accordance with G.S. Chapter 150A, known as the Administrative Procedure Act, in order to carry out the intent and purposes of this Article.

(b) The Commission may also promulgate rules and regulations to allow the county medical examiners to use the facilities of the central laboratory and the services of its professional staff in their investigations.”

Sec. 16. G.S. 131-126.6 is rewritten to read:

“§ 131-126.6. Denial or revocation of license; hearings and review.—(a) The Department of Human Resources shall have the authority to deny, suspend or
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revoke a license in any case where it finds that there has been a substantial failure to comply with the provisions of this Article or the rules, regulations or minimum standards promulgated under this Article.

(b) This denial, suspension or revocation shall be in accordance with the rules of the Medical Care Commission, and Chapter 150A, known as the Administrative Procedure Act.”

Sec. 17. G.S. 131-126.14 is rewritten to read:

“§ 131-126.14. Judicial review.—Any applicant or licensee who is dissatisfied with the decision of the Medical Care Commission as a result of the hearing provided in G.S. 131-126.6 may, within 30 days after a written copy of the decision is served, request judicial review under G.S. 150A, known as the Administrative Procedure Act.”

Sec. 18. G.S. 134A-8 is amended by adding a new subsection (7) to read:

“(7) to promulgate rules and regulations to implement the provisions of this Chapter and the responsibilities of the Secretary and the Department of Human Resources under Chapter 7A.”

Sec. 19. G.S. 143B-181.1 is amended by redesignating the first and second paragraphs as subsections (a) and (b) and by adding a new paragraph (c) to read:

“(c) The Secretary of Human Resources shall promulgate rules and regulations in accordance with G.S. Chapter 150A, the Administrative Procedure Act, in order to carry out the purposes of this Part and to implement the Older Americans Act, as amended, and the federal regulations implementing the act.”

Sec. 20. G.S. 153A-223, is amended by adding after the phrase “(2) The governing body shall, within 30 days after the day the Secretary’s notice is received,” and before the phrase “initiate appropriate corrective action” the words “request a contested case hearing.”.

Sec. 21. Chapter 153A is amended by deleting G.S. 153A-223(3), (4) and (5) and by substituting the following:

“(3) A contested case hearing, if requested, shall be conducted pursuant to G.S. 150A, Article 3. The issues shall be: (a) whether the facility meets the minimum standards; (b) whether the conditions in the facility jeopardize the safe custody, safety, health, or welfare of persons confined therein; and (c) the appropriate corrective action to be taken and a reasonable time to complete that action.

(4) If the governing body does not, within 30 days after the day the Secretary’s notice is received, or within 30 days after service of the final agency decision if a contested case hearing is held, either initiate corrective action or close the facility, or does not complete the action within a reasonable time, the Secretary may order that the facility be closed.

(5) The governing body may appeal an order of the Secretary to the senior regular resident superior court judge. The governing body shall initiate the appeal by giving by registered mail to the judge and to the Secretary notice of its intention to appeal. The notice must be given within 15 days after the day the Secretary’s order is received. If notice is not given within the 15-day period, the right to appeal is terminated.

(6) The senior regular resident superior court judge shall hear the appeal. He shall cause notice of the date, time, and place of the hearing to be given to each interested party, including the Secretary, the governing body, and each other
local official involved. The Secretary, if a contested case hearing has been held, shall file the official record, as defined in G.S. 150A-37, with the senior regular resident superior court judge and shall serve a copy on each person who has been given notice of the hearing. The judge shall conduct the hearing without a jury. He shall consider the official record, if any, and may accept evidence from the Secretary, the governing body, and each other local official which he finds appropriate. The issue before the court shall be whether the facility continues to jeopardize the safe custody, safety, health, or welfare of persons confined therein. The court may affirm, modify, or reverse the Secretary's order.

Sec. 22. G.S. 150A-1 is amended by deleting from the first paragraph the phrase "Commission for Youth Services".

Sec. 23. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 18th day of June, 1981.

H. B. 279

CHAPTER 615

AN ACT TO AMEND CHAPTER 88 OF THE GENERAL STATUTES PERTAINING TO THE PRACTICE OF COSMETIC ART.

The General Assembly of North Carolina enacts:

Section 1. G.S. 88-1 is amended by adding at the end of the first paragraph immediately before the period the following:

"and, except as provided in G.S. 88-7.1, the practice of cosmetic art shall not be performed outside of a licensed and regularly inspected beauty establishment."

Sec. 2. G.S. 88-1 is amended by adding at the end of the second sentence of the last paragraph immediately before the period the following:

"from one location to another or from one owner to another at the same location."

Sec. 3. G.S. 88-4 is amended by adding at the end of the section and immediately before the period the following:

"‘, and a 'Beauty School', 'Beauty College', or 'Beauty Academy' is any building or part thereof wherein cosmetic art is taught”.

Sec. 4. G.S. 88-6 is amended on line 1 by deleting the comma following the word "manager" and on line 2 by deleting the word "itinerant" and the comma following that word.

Sec. 5. G.S. 88-7 is repealed.

Sec. 6. Chapter 88 of the General Statutes is amended by adding a new section to read as follows:

"§ 88-7.1. Practice outside a beauty parlor.—A registered cosmetologist shall be allowed to attend to the cosmetic needs of persons who are sick or disabled and confined to their place of residence. Registered cosmetologists shall also be allowed to attend to the cosmetic needs of persons in hospitals, nursing homes, rest homes, retirement homes, rehabilitation facilities, mental institutions, correctional facilities, funeral establishments, and similar institutions or facilities."

Sec. 7. G.S. 88-9 is amended by deleting the comma at the end of line 1 and by deleting the phrase "itinerant cosmetologist,” on line 2.
Sec. 8. G.S. 88-10 is rewritten to read as follows:

"§ 88-10. Qualifications for registered apprentice.—No person shall be issued a certificate of registration as a registered apprentice by the State Board of Cosmetic Art Examiners unless:

(1) the applicant has completed at least 1,200 hours in classes in a cosmetic art school or college approved by the board and

(2) the applicant passes a written and practical examination prescribed by the board; applicants shall not be allowed to take an oral examination in lieu of the written portion of the examination administered by the board.

In the alternative, applicants may be admitted under the procedures of G.S. 88-19.

Applicants shall pay the fees required by G.S. 88-21."

Sec. 9. G.S. 88-12 is rewritten to read as follows:

"§ 88-12. Qualifications for registered cosmetologist.—A certificate of registration as a registered cosmetologist shall be issued by the State Board of Cosmetic Art Examiners to any person who is qualified under this Chapter or who meets the following qualifications:

(1) Successful completion of at least 1,200 hours in classes in a cosmetic art school, college or other institution of learning approved by the board and

(a) completion of an apprenticeship for a period of at least six months

under direct supervision of a registered managing cosmetologist as certified by sworn affidavit of three registered cosmetologists or by other evidence satisfactory to the board, or

(b) completion of an additional 300 hours of cosmetic art education in a cosmetic art school, public school, community college, technical institute, college or university approved by the board;

(2) Successful completion of an examination conducted by the board to determine the applicant’s fitness and skill to practice cosmetic art and whether he or she has sufficient knowledge of the diseases of the face, skin, and scalp to avoid the aggravation and spreading thereof in the practice of the profession; provided that applicants shall not be allowed to take an oral examination in lieu of the written portion of the examination administered by the board; and

(3) Payment of the fees required by G.S. 88-21."

Sec. 10. G.S. 88-13 is rewritten to read as follows:

"§ 88-13. State Board of Cosmetic Art Examiners created; appointment and qualifications of members; term of office; removal for cause.—(a) The State Board of Cosmetic Art Examiners is established to consist of four members appointed by the Governor. Three members shall be experienced, licensed cosmetologists who have practiced all branches of cosmetic art in this State for at least five years immediately preceding appointment to the board. These members shall be free of any connection with any cosmetic art school, college, academy, or training school during their service on the board. The other member shall be a person who is not licensed under this Chapter and who shall represent the interest of the public at large.

(b) Cosmetologist members of the board shall serve staggered three-year terms. In order to establish a staggered term system, the terms of those members currently serving on the board shall expire as follows: the term of the member having served the longest time on the board shall expire on June 30, 1981; the term of the member having served the least amount of time on the board shall expire on June 30, 1983; and the term of the remaining
cosmetologist member shall expire on June 30, 1982. Thereafter, all cosmetologist members shall serve three-year terms.

The Governor shall appoint the public member not later than July 1, 1981, to serve a three-year term.

No board member appointed on or after July 1, 1981, shall serve more than two complete consecutive terms, except that each member shall serve until his successor is appointed and qualifies.

(c) The Governor may remove any member for good cause shown and may appoint members to fill unexpired terms."

Sec. 11. G.S. 88-15 is amended on lines 4 and 5 by deleting the phrase following the word “Board” and ending before the word “shall”, which reads as follows:

“deemed to be official business of the Board”.

Sec. 12. G.S. 88-19 is rewritten to read as follows:

“§ 88-19. Applicants licensed in other states.—The board shall issue a license to applicants already licensed as an apprentice or registered cosmetologist in another state provided the applicant presents evidence satisfactory to the board that:

(1) He is currently an active, competent practitioner in good standing; and
(2) He has practiced at least one out of the three years immediately preceding his application; and
(3) He currently holds a valid license in another state; and
(4) There is no disciplinary proceeding or unresolved complaint pending against him at the time a license is to be issued by this State; and
(5) The licensure requirements in the other state are the substantive equivalent of those required by this State.

Any license granted pursuant to this section is subject to the same duties and obligations and entitled to the same rights and privileges as a license issued under G.S. 88-10 or G.S. 88-12.”

Sec. 13. Two new sentences are added to the end of G.S. 88-21 to read as follows:

“Applicants for licensure under G.S. 88-19 shall pay an application fee of fifteen dollars ($15.00) and a license fee of five dollars ($5.00) for an apprentice or eight dollars ($8.00) for registration as a cosmetologist; thereafter, the annual fee for renewal of licenses issued pursuant to G.S. 88-19 shall be the same as that charged registered apprentices and cosmetologists under this section.”

Sec. 14. G.S. 88-23 is rewritten to read as follows:

“§ 88-23. Rules and regulations of board; inspections; granting of certificates to board members; employment of former board members.—(a)(1) The State Board of Cosmetic Art Examiners shall have the authority to make a reasonable curriculum and rules for recognized schools and colleges of beauty culture and make reasonable rules and regulations for the sanitary management of cosmetic art shops, beauty parlors, hairdressing establishments, cosmetic art schools, colleges, academies and training schools, hereinafter called shops and schools, and to have such curriculum and rules and the sanitary rules and regulations enforced. The duly authorized agents of said board shall have authority to enter upon and inspect any shop or school at any time during business hours. A copy of the curriculum and rules and the sanitary rules and regulations shall be furnished from the office of the board or by the above mentioned authorized agents to the owner or manager of each shop or school in
the State, and such copy shall be kept posted in a conspicuous place in each shop and school, and a copy of the curriculum and rules for recognized schools and colleges of beauty culture shall be kept posted in a conspicuous place in each school and the rules and regulations complied with as required by this Chapter.

(2) The board shall adopt regulations prohibiting the use of commercial chemicals of unknown content by persons registered under this Chapter. For purposes of this section, 'commercial chemicals' are those products sold only through beauty and barber supply houses and not available to the general public.

(3) The board shall adopt regulations instructing persons registered under this Chapter in the proper use and application of commercial chemicals where no manufacturer's instructions are included. In the alternative, the board shall prohibit the use of such commercial chemicals by persons registered under this Chapter.

(b) The Board of Cosmetic Art shall not hereafter be authorized to grant teacher's or instructor's certificates to board members during their term of appointment on said board. Teacher's or instructor's certificates granted to members by official action of the board, without prior examination, shall be rescinded upon such member's termination from the Board of Cosmetic Art.

Any person appointed to the board shall be prohibited from being employed by the board for a period of one year after that person's term of appointment expires, whether or not that person served his whole term."

Sec. 15. G.S. 88-26(6) is amended on line 1 by deleting the word "commission" and substituting therefor the word "conviction".

Sec. 16. G.S. 88-27 is amended on line 3 by deleting the citation "150(A)" and substituting therefor the citation "150A".

Sec. 17. G.S. 88-28 is amended by rewriting the second line of subsection (4) to read as follows:

"money other than the required fee or any other thing of value, or by".

Sec. 18. G.S. 88-28.1 is amended by adding a new sentence at the end of the section to read as follows:

"Actions under this section shall be commenced in the county in which the respondent resides or has his principal place of business or in which the alleged acts occurred."

Sec. 19. G.S. 88-30(2) is repealed.

Sec. 20. G.S. 143-34.12 is amended by deleting line 18, which reads as follows:

"Chapter 88, entitled 'Cosmetic Art'."

Sec. 21. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of June, 1981.

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H. B. 283    CHAPTER 616

AN ACT TO AMEND CHAPTER 90A, ARTICLE 2, CONCERNING
CERTIFICATION OF WATER TREATMENT FACILITY OPERATORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90A-21(a) is amended on line 4 by deleting the word "seven" and substituting therefor the word "eight" and by deleting the words "Secretary of Human Resources" and substituting therefor the word "Governor".

Sec. 2. G.S. 90A-21(a) is further amended on line 19 by deleting the word "and", on lines 21 and 22 by deleting the phrase beginning with the word "who" on line 21 and ending with the word "Certification" on line 22 and substituting therefor a semicolon, and by inserting a new subdivision between lines 22 and 23 to read as follows:

"(8) One member not certified or regulated under this Article, who shall represent the interest of the public at large."

Sec. 3. G.S. 90A-21 is further amended by rewriting subsection (b) to read as follows:

"(b) Terms of Office. All members serving on the board on June 30, 1981, shall complete their respective terms. No member appointed to the board on or after July 1, 1981, shall serve more than two complete consecutive three-year terms, except that the member employed by the Department of Human Resources may serve more than two consecutive terms, and except that each member shall serve until his successor is appointed and qualifies. The Governor may remove any member for good cause shown and shall appoint members to fill unexpired terms. The Governor shall appoint the public member not later than July 1, 1981."

Sec. 4. G.S. 90A-21(d) is rewritten to read as follows:

"(d) Compensation. Members of the Board of Certification who are officers or employees of State agencies or institutions shall receive subsistence and travel allowances at the rates authorized by G.S. 138-5."

Sec. 5. G.S. 90A-21 is further amended by adding two new subsections at the end thereof to read as follows:

"(e) Officers. The board shall elect a chairman and all other necessary officers to serve one-year terms. A majority of the members of the board shall constitute a quorum for the transaction of business.

(f) Annual Report. The board shall report annually to the Governor a full statement of its disciplinary and enforcement programs and activities during the year, together with such recommendations as it may deem expedient."

Sec. 6. G.S. 90A-22 is amended on line 1 by rewriting the line to read as follows:

"§ 90A-22. Classification of water treatment facilities; notification of users.—
(a) On or before July 1, 1982, the Board of".

G.S. 90A-22 is further amended by adding a new subsection at the end thereof to read as follows:

"(b) The board shall notify users of such facilities when any classification of a facility by the board would result in a certified operator's not being required to supervise the operation of that facility. Any user so notified may demand a hearing before the board on its decision, and that hearing and any appeal
therefrom shall be conducted in accordance with Articles 3 and 4 of Chapter 150A of the General Statutes."

Sec. 7. G.S. 90A-25(d) is amended by rewriting lines 7 through 10 to read as follows:

"provided the facility was classified before July 1, 1981, and provided the application for such certification is made within one year of the date of notification. A certificate so issued will be valid for use by the holder only in the water treatment facility in which he was employed at the time of his certification. No certificate shall be issued under this subsection to any operator of any water treatment facility classified by the board on or after July 1, 1981."

Sec. 8. G.S. 90A-25(e) is amended by rewriting line 5 to read as follows:

"be valid for only one year. Temporary certificates may be"

G.S. 90A-25(e) is further amended by adding a new sentence to the end thereof to read as follows:

"No temporary certificate may be renewed more than one time either by any operator at the same grade level or by any operator for employment at the same water treatment facility."

Sec. 9. G.S. 90A-26 is amended on line 2 by deleting the brackets surrounding the letter "A" as it appears after the number "150" and before the word "of" and on line 3 by deleting the words "revoke the certificate of" and substituting therefor the words "singly or in combination, issue a reprimand to, or revoke or suspend the certificate of".

Sec. 10. G.S. 90A-29 is amended by designating the first sentence thereof as subsection (a) and by designating the second sentence thereof as subsection (b).

Sec. 11. Article 2, Chapter 90A of the General Statutes, is amended by adding a new section to the end thereof to read as follows:

"§ 90A-30. Penalties; remedies; contested cases.—(a) Upon the recommendation of the Board of Certification, the Secretary of Human Resources or a delegated representative may impose an administrative, civil penalty on any person, firm or corporation who violates G.S. 90A-29(a). Each day of a continued violation shall constitute a separate violation. The penalty shall not exceed one hundred dollars ($100.00) for each day such violation continues. No penalty shall be assessed until the person alleged to be in violation has been notified of the violation.

(b) Any person wishing to contest a penalty issued under this section shall be entitled to an administrative hearing and judicial review conducted according to the procedures outlined in G.S. 150A-23 through G.S. 150A-52.

(c) The secretary may bring a civil action in the superior court of the county in which the violation is alleged to have occurred to recover the amount of the administrative penalty whenever an owner or person in control of a water treatment facility

(1) who has not requested an administrative hearing fails to pay the penalty within 60 days after being notified of such penalty, or

(2) who has requested an administrative hearing fails to pay the penalty within 60 days after service of a written copy of the decision as provided in G.S. 150-36.

(d) Notwithstanding any other provision of law, this section imposes the only penalty or sanction, civil or criminal, for violations of G.S. 90A-29(a) or for the
failure to meet any other legal requirement for a water system to have a
certified operator in responsible charge."

Sec. 12. G.S. 143-34.12 is amended by deleting line 44 which reads as
follows:
"Chapter 90A, Article 2, entitled 'Water Treatment Facility Operators'."

Sec. 13. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of
June, 1981.

H. B. 619

CHAPTER 617

AN ACT TO AMEND THE CHARTER OF THE CITY OF WILMINGTON
CONCERNING CLAIMS AGAINST THE CITY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 495, Session Laws of 1977, being the Charter of the
City of Wilmington, as amended by Chapter 127, Session Laws of 1979, is
amended by rewriting all of Article XXIX of the Charter to read:

"ARTICLE XXIX. CLAIMS AGAINST AND BY THE CITY.

"SUBCHAPTER A. CLAIMS AGAINST THE CITY.

"Sec. 29.1. Presentation of claims; suit upon claims. (a) In order to preserve a
claim against the City of Wilmington arising in contract or in tort, notice must
be given and the cause of action commenced in accordance with G.S. 1-539.15.

(b) No action shall be instituted against the city on account of damages to or
compensation for real property taken or used by the city for any public purpose,
or for the ejectment of the city therefrom, or to remove a cloud upon the title
thereof, unless within two (2) years after such alleged use, the owner, his
executor, administrator, guardian, or next friend, shall have given notice in
writing to the city council of the claim, stating in the notice the date that the
alleged use commenced, a description of property alleged to have been used, and
the amount of the damage or compensation claimed.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, if
a complainant suffers from physical or mental incapacity that renders it
impossible for him to give notice, his action shall not be barred if notice of claim
is given by him or on his behalf within six (6) months after the termination of
his incapacity; provided, that minority shall not of itself constitute physical or
mental incapacity. If the complainant is a minor, his action shall not be barred
if notice of claim is given on his behalf within three (3) years after the
happening or the infliction of the injury complained of; or, if the minor suffers
from physical or mental incapacity that renders it impossible for him to give
notice, his action shall not be barred if notice of claim is given on his behalf
within six (6) months after termination of the incapacity or within three (3)
years after the happening or the infliction of the injury complained of,
whichever is the longer period. The city may at any time request the
appointment of a next friend to represent any person having a potential claim
against the city and known to be suffering from physical or mental incapacity.

"Sec. 29.2. Settlement of claims by city manager. The city manager may
settle claims against the city for:

(1) Personal injury or for damages to property when the amount involved
does not exceed the sum of twenty-five hundred dollars ($2500), and does not

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exceed the actual loss sustained, including loss of time, medical expenses, and any other expense actually incurred; and

(2) The taking of small portions of private property which are needed for street or utility rights-of-way, or rounding of corners at street intersections, or storm sewer rights-of-way, when the amount involved in any such settlement does not exceed the sum of twenty-five hundred dollars ($2500), and does not exceed the actual loss sustained.

Settlement of a claim by the city manager pursuant to this section shall constitute a complete release of the city from any and all damages sustained by the person involved in such settlement in any manner arising out of the accident, occasion, or taking complained of. All such releases shall be approved by the city attorney.

"SUBCHAPTER B. CLAIMS BY THE CITY.

"Sec. 29.13. Settlement of claims by the city manager. The city manager is hereby authorized to execute releases of persons, firms and corporations because of damages to personal property belonging to City of Wilmington when the full amount of damages to such property is ascertained and a statement thereof has been furnished to the city manager by the city attorney and the amount of such release does not exceed twenty-five hundred dollars ($2500). In the event that draft or check is presented to the city which constitutes a release, instead of a regular release form, the city manager is hereby authorized to direct that such draft or check be handled as other payments to the city and, when approved by the city manager, shall constitute a release to the extent stated on the draft or check."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of June, 1981.

H. B. 734  CHAPTER 618

AN ACT TO AMEND THE ACT RELATIVE TO THE TITLE TO THE LAND BUILT UP AND CONSTRUCTED IN THE TOWN OF WRIGHTSVILLE BEACH.

The General Assembly of North Carolina enacts:

Section 1. Chapter 246 of the Public Laws of 1939 is amended by striking the word phrase "the building line" where it appears in quotes throughout the act and substituting in lieu thereof the word phrase "the property line" which shall be without quotes as the phrase "the building line" was in the original act.

Sec. 2. The Town of Wrightsville Beach, by ordinance, shall determine the minimum building setback requirements from the property line described in Chapter 246, Public Laws of 1939, as amended by this act.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of June, 1981.
H. B. 942  CHAPTER 619
AN ACT TO AMEND THE LAW GOVERNING THE NORTH CAROLINA BOARD OF MORTUARY SCIENCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-210.25(a)(4)d. is amended by adding a new sentence at the end to read:
"No credit shall be allowed for the 12-month period of resident traineeship that shall have been completed more than three years preceding the examination for a license."

Sec. 2. G.S. 90-210.25(e) is amended by deleting the word "Fines;" from the catchline.

Sec. 3. G.S. 90-210.25(e)(1)b. is rewritten to read:
"b. Fraud or misrepresentation in obtaining or renewing a license or in the practice of funeral service;".

Sec. 4. G.S. 90-210.25(f) is amended by adding a new paragraph at the end to read:
"Whenever it shall appear to the board that any person, firm or corporation has violated, threatens to violate or is violating any provisions of this Article, the board may apply to the courts of the State for a restraining order and injunction to restrain these practices. If upon application the court finds that any provision of this Article is being violated, or a violation is threatened, the court shall issue an order restraining and enjoining the violations, and this relief may be granted regardless of whether criminal prosecution is instituted under the provisions of this subsection. The venue for actions brought under this subsection shall be the superior court of any county in which the acts are alleged to have been committed or in the county where the defendant in the action resides."

Sec. 5. G.S. 90-210.28 is amended by adding a new line at the end to read:
"Duplicate license certificate $15.00".

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of June, 1981.

H. B. 1031  CHAPTER 620
AN ACT TO MAKE TECHNICAL CHANGES IN LICENSE PROVISIONS ADMINISTERED BY THE NORTH CAROLINA WILDLIFE RESOURCES COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-270.3(d) is amended by adding a sentence at the end to read: "The Wildlife Resources Commission may administratively provide for the annual issuance of big game tags, or other identification for big game authorized by subsection (c), to holders of lifetime sportsman combination licenses."

Sec. 2. G.S. 113-272.2 is amended by adding a new subsection (d) as follows:
"(d) Any individual who holds a current and valid primitive weapons hunting license may take nongame fish from inland fishing waters for personal use with
a bow and arrow in accordance with the regulations of the Wildlife Resources Commission without being required to obtain a special device license.

Sec. 3. G.S. 113-272.3 is amended as follows:
(a) By deleting the period at the end of the caption, substituting a semicolon, and adding the following clause to the caption: "personalized lifetime sportsman combination licenses."
(b) By adding a new subsection (d) as follows:
"(d) In issuing lifetime sportsman combination licenses, the Wildlife Resources Commission is authorized to adopt regulations to establish a personalized series and to charge a five dollar ($5.00) administrative fee, to be deposited in the Wildlife Fund, to defray the cost of issuance of the personalized license."

Sec. 4. G.S. 113-273(a) is amended by rewriting its last two sentences to read: "Except when indicated otherwise, dealer licenses are annual licenses issued beginning January 1 each year running until the following December 31."

Sec. 5. G.S. 113-273(f) is amended by inserting between its third and fourth sentences a new sentence to read: "All fur-dealer licenses are annual licenses issued beginning August 1 each year running until the following July 31."

Sec. 6. G.S. 113-273(g) is amended by deleting the period at the end, substituting a comma, and adding a clause to read: "and is an annual license issued beginning August 1 each year running until the following July 1."

Sec. 7. G.S. 113-275 is amended by adding a new subsection (b1) as follows:
"(b1) No resident hunting or fishing license issued to a qualified applicant under the provisions of G.S. 113-270.2, 113-270.3, 113-271, or 113-272 becomes invalid for use during the term for which it is issued by reason of a removal of the residence of the licensee to another state. This provision applies both to renewable and lifetime licenses."

Sec. 8. G.S. 113-275 is amended by adding a new subsection (c1) as follows:
"(c1) Upon receipt of a proper application together with a fee of two dollars ($2.00), the Wildlife Resources Commission may issue a new license or permit to replace one that has been lost or destroyed before its expiration. The application must be on a form of the Wildlife Resources Commission setting forth information in sufficient detail to allow ready identification of the lost or destroyed license or permit and ascertainment of the applicant’s continued entitlement to it."

Sec. 9. Sections 7 and 8 of this act are effective upon ratification. The other sections shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 19th day of June, 1981.
H. B. 1177  CHAPTER 621
AN ACT TO REPEAL PROCEDURAL RESTRICTIONS ON SALE OF WATER BY BUNCOMBE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 6 of Chapter 618, Session Laws of 1951 is repealed.
Sec. 2. Section 8 of Chapter 618, Session Laws of 1951 is amended by deleting the words “as prescribed in Section 6 hereof”.
Sec. 3. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 19th day of June, 1981.

H. B. 153  CHAPTER 622
AN ACT TO AMEND THE LEGISLATION DEALING WITH THE GAME COMMISSION OF CURRITUCK COUNTY TO REVISE LICENSE FEES, TO PROVIDE FOR APPEALS FROM ACTIONS ON HUNTING BLIND LICENSES TO THE DISTRICT COURT, AND TO MAKE OTHER PROCEDURAL CHANGES.

The General Assembly of North Carolina enacts:

Section 1. The legislation establishing the Game Commission of Currituck County is amended as provided in this act. The text of the legislation here amended is set out in Session Laws 1957, Chapter 1436, as amended. The amendments are contained in Session Laws 1971, Chapter 1178; Session Laws 1973, Chapter 747; Session Laws 1975, Chapter 398; and Session Laws 1977, Chapter 190.
Sec. 2. Session Laws 1957, Chapter 1436, is amended by repealing Sections 3, 7, and 9.
Sec. 3. Session Laws 1957, Chapter 1436, Section 4, as amended, is amended by deleting the last sentence and inserting instead:
“To help defray the costs of enforcement of the provisions of this act, the clerk to the Game Commission shall remit to the North Carolina Wildlife Resources Commission for deposit in the Wildlife Resources Fund, out of monies received by him from the sale of hunting blind licenses, the following amounts: eleven dollars ($11.00) of the fee for a license for a point blind, four dollars ($4.00) of the fee for a license for a bush blind, and nine dollars ($9.00) of the fee for a license for a float blind.”
Sec. 4. Session Laws 1957, Chapter 1436, Section 5, is amended by deleting the second and third sentences and inserting instead:
“The Game Commission shall be selected and appointed by the Board of County Commissioners of Currituck County, but no member of the Game Commission shall be removed except upon the unanimous vote of all the members of the board of commissioners.”
Sec. 5. Session Laws 1957, Chapter 1436, is amended in the last line of Section 6 by deleting the words “appeal to the North Carolina Wildlife Resources Commission” and inserting instead the words: “file an appeal with the district court within 10 days. The procedure governing the appeal shall substantially follow the provisions of Section 29(e)”.

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Sec. 6. Session Laws 1957, Chapter 1436, is amended by rewriting Section 8 as follows:

"Sec. 8. To obtain a license for either a stationary bush blind or a floating bush blind, the applicant shall apply in writing to the clerk to the Game Commission enclosing:

(a) For a bush blind, $15.00; and
(b) For a float blind, $20.00.

Of the amount remitted, the clerk to the Game Commission shall retain one dollar ($1.00) as an issuance fee for each license issued.

Float blinds when licensed shall bear the license number or tag, and the same shall be displayed in a prominent or conspicuous place upon the blind."

Sec. 7. Session Laws 1957, Chapter 1436, Section 10, Subsection (b), as amended, is amended by rewriting the second sentence to read:

"To obtain a license for a point blind, the applicant shall apply in writing to the clerk to the Game Commission enclosing twenty-five dollars ($25.00). Of the amount remitted, the clerk to the Game Commission shall retain two dollars ($2.00) as an issuance fee for each license issued."

Sec. 8. Session Laws 1957, Chapter 1436, is amended in Section 15 as follows:

(a) by deleting from the second and third lines the words "upon approval of the North Carolina Wildlife Resources Commission";
(b) by inserting after the word "the" and before the word "license" in the third line the words "hunting blind";
(c) by inserting after the word "the" and before the word "Commission" on the sixth line the word "Game";
(d) by inserting after the word "the" and before the word "license" in the seventh line the words "hunting blind".

Sec. 9. Session Laws 1957, Chapter 1436, as amended, is amended by rewriting Section 18 to read as follows:

"Sec. 18. The Game Commission of Currituck County is empowered to pay the necessary fees of attorneys, surveyors, and accountants; the costs of printing license forms for hunting blind licenses to be furnished to the clerk to the Game Commission; and other necessary expenses of carrying out the duties imposed by this act. Each member shall be paid a per diem of ten dollars ($10.00) and travel expenses of fifteen cents (15¢) per mile while engaged in official business of the Game Commission. The Chairman of the Game Commission shall be paid one thousand dollars ($1,000) per year in addition to per diem and travel for the fulfillment of his duties as chairman, in such installments as the Commission may direct. Each Game Commission member shall be paid five hundred dollars ($500.00) per year in addition to per diem and travel in such installments as the Game Commission may direct. The clerk to the Game Commission shall receive an annual salary of five hundred dollars ($500.00) for the performance of his duties for the Game Commission in addition to his fees for issuing licenses.

The Game Commission may accumulate an operating reserve of funds to carry out the necessary duties imposed by this act in an amount deemed necessary by the Game Commission, but not to exceed five thousand dollars ($5,000). At the end of each fiscal year any funds held by the Game Commission in excess of the operating reserve must be paid to the North Carolina Wildlife Resources Commission for deposit in the Wildlife Resources Fund.
Prior to the beginning of the Game Commission’s fiscal year it shall file a copy of its budget for that year with the North Carolina Wildlife Resources Commission. Within 30 days following receipt of the audit report made after the close of a fiscal year, the Game Commission shall file a copy of the audit report with the Wildlife Commission.”

Sec. 10. Session Laws 1957, Chapter 1436, is amended in the third line of Section 20 by deleting the phrase “(a) This paragraph” and inserting instead the words “This section”.

Sec. 11. Session Laws 1957, Chapter 1436, is amended in Section 26 as follows:

(a) by deleting the first line and inserting instead: “Sec. 26. The clerk to the Game Commission”;
(b) by deleting in the last line the word “secretary” and inserting instead the words “clerk to the Game Commission”.

Sec. 12. Session Laws 1957, Chapter 1436, as amended, is amended by rewriting Section 29 as follows:

“Sec. 29. No blind shall be constructed or hunted from by any person unless such blind shall have been duly licensed. The procedure for the issuance of a blind license shall be as follows:

(a) All applications for blind licenses shall be made in writing and filed with the clerk to the Game Commission between August 1 and the second Wednesday in August of each year. Each application shall describe the exact proposed location of the blind by course and distance from a known natural monument susceptible of definite and exact location; the type of blind license applied for; and the name of the applicant, his age, address, and the purpose for which he intends to use the blind (for example, for personal use or as a guide). Each application shall also contain an oath by the applicant that the blind will be used personally by the applicant and his guests for hunting and will not be assigned or rented for a consideration unless the applicant be the guide accompanying such sportsman.

(b) All applications that have been filed during the period above provided shall receive consideration by the Game Commission of Currituck County at a meeting to be held at 1:00 p.m. at the Currituck County Courthouse on the Thursday following the second Wednesday in August, at which time all applications for licenses submitted shall be passed upon and granted or refused. Any applicant whose application for a license is denied shall be notified immediately by mail of the rejection of the application. Whether this notice is mailed or received, however, it is the responsibility of each applicant to determine whether his application for a blind license has been approved or rejected and, if desired, to make a timely demand for a hearing under subsection (c) upon rejection of the application.

(c) Any applicant who has been refused a hunting blind license, or any person objecting to the issuance of a license to another, shall by the fourth Wednesday in August following action on the license application notify in writing the clerk to the Game Commission that he demands a public hearing before the Game Commission on the question of the issuance of the license, stating in detail his grounds for objection to the denial or granting of the license. The Game Commission shall conduct a public hearing on all such demands for the purpose of finding facts, hearing the arguments and contentions of the parties, and judicially passing upon the question on the first Wednesday in September of
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each year. The hearing shall be held at the Currituck County Courthouse, and
shall convene at 7:00 p.m. If a person objecting to the issuance of a license to
another has demanded a hearing, the clerk to the Game Commission shall mail
by the Thursday following the fourth Wednesday in August a notice of the
hearing to the person whose license application was granted. Mailing of the
notice to the address given in the license application is sufficient notice of the
hearing.

(d) Within one week following the hearing provided by subsection (c), the
clerk to the Game Commission shall file with the Clerk of Superior Court of
Currituck County a listing of all blind licenses issued without contest, all
licenses issued following a hearing on the matter, all license applications denied
without contest, and all license applications denied following the hearing. The
listing for each action taken only after a contest in the hearing shall briefly set
out the Game Commission's findings of fact and the basis for the action taken
on the license application.

(e) Any party to the hearing provided by subsection (c) who is aggrieved by
the decision of the Game Commission may appeal the decision to the District
Court Division of the General Court of Justice sitting in Currituck County,
where the matter shall be heard de novo by a district court judge. The aggrieved
party shall file written notice of his appeal with the office of the Clerk of
Superior Court of Currituck County by the third Wednesday in September
stating the grounds for his objection to the decision of the Game Commission.
Filing timely notice of appeal shall suspend the decision taken by the Game
Commission pending resolution of the question by the district court, but failure
to file timely notice shall bar the right to appeal. The district court shall not
hold any hearing on an appeal prior to the fourth Wednesday in September
following notice of the appeal. The district court shall publicly calendar the
hearing so that interested persons may appear at the hearing and give evidence.
These interested persons may include members of the Game Commission, if
they wish to amplify the grounds for the Game Commission's decision on the
matter. Following the district court's decision, it may implement its ruling with
appropriate orders to the Game Commission concerning issuance of the blind
license or rejection or modification of the application.

(f) The clerk to the Game Commission shall begin issuance of blind licenses as
soon as feasible for those licenses as to which there is no contest; and, as to each
license contested under subsection (c) or by further appeal to the district court,
as soon as feasible after the proceedings with respect to each license have
concluded. The license issued shall carry a number designation; name, age, and
address of the licensee; and a description of the location of the blind by course
and distance as set out in the approved application."

Sec. 13. All prior special and local acts dealing with the Game
Commission of Currituck County other than those listed in Section 1 of this act
are hereby repealed.

Sec. 14. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 19th day of
June, 1981.

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H. B. 588

CHAPTER 623

AN ACT TO AUTHORIZE BOARDS AND SPECIAL BOARDS OF EQUALIZATION AND REVIEW TO COMPROMISE, SETTLE OR ADJUST TAXES AFTER DISCOVERY UNDER G.S. 105-312.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-312(k) is amended by adding a new sentence at the end to read:

"The board of commissioners may, by resolution, delegate the authority granted by this subsection to the board of equalization and review, including any board created by resolution pursuant to G.S. 105-322(a) and any special board established by local act."

Sec. 2. G.S. 105-312(l) is amended by adding a new sentence at the end to read:

"The governing board of a municipality may, by resolution, delegate the power to compromise, settle, or adjust tax claims granted by this subsection and by subsection (k) of this section to the county board of equalization and review, including any board created by resolution pursuant to G.S. 105-322(a) and any special board established by local act."

Sec. 3. All laws and clauses of laws in conflict with this act, whether public or local, are repealed.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of June, 1981.

H. B. 719

CHAPTER 624

AN ACT TO AMEND THE NORTH CAROLINA SECURITIES ACT TO PROVIDE AN ALTERNATIVE METHOD OF REGISTERING SECURITIES DEALERS AND SALESMEN AND TO MAKE OTHER CHANGES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 78A-16(11) is rewritten to read:

"(11) Any interest in an employees' stock purchase, stock option, savings, pension, profit-sharing or other similar benefit plan;"

Sec. 2. G.S. 78A-17(9)b. is amended by adding the following at the end thereof:

"however, the Administrator may, by rule or order as to any security or transaction, withdraw or further condition this exemption;"

Sec. 3. G.S. 78A-28(j) is amended by rewriting the first sentence to read:

"A registration statement filed in accordance with subsection (b) of this section may be amended after its effective date to increase the securities specified as proposed to be offered."

Sec. 4. G.S. 78A-36(b) is amended by adding the following sentence at the end thereof:

"No salesman may be registered with more than one dealer or issuer."

Sec. 5. Article 5 of Chapter 78A is amended by adding a new section, G.S. 78A-40, to read:

"§ 78A-40. Alternative methods of registration.—(a) The Administrator may by rule or order provide an alternative method of registration by which any
dealer or salesman acting in that capacity or as a principal may satisfy the requirements of this Article by furnishing the information otherwise required to be filed pursuant to this Article. The Administrator may provide for, among other things, alternative filing periods for dealers or salesmen, elimination of the issuance of a paper license and alternative methods for the payment and collection of initial or renewal filing fees, which shall be known as 'alternative filing fees'. The alternative filing fees shall be the same as provided in G.S. 78A-37(b).

(b) The Administrator may not adopt an alternative method of registration unless its purpose is to facilitate a central registration depository whereby dealers or salesmen can centrally or simultaneously register and pay fees for all states in which they plan to transact business that require registration. The Administrator may enter into an agreement with or otherwise facilitate an alternative method of registration with any national securities association registered with The Securities and Exchange Commission pursuant to Section 15A of the Securities Exchange Act of 1934, any national securities exchange registered under the Securities Exchange Act of 1934, or any national association of state securities Administrators or similar association to effectuate the provisions of this section.

(c) Nothing in this section shall be construed to prevent the denial, revocation, suspension, cancellation or withdrawal by the Administrator of a registration of a dealer or salesman as provided in G.S. 78A-39.”

Sec. 6. G.S. 78A-26(b)(1) is rewritten to read:
“(1) One copy of the latest form of prospectus filed under the Securities Act of 1933;”.

Sec. 7. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 19th day of June, 1981.

H. B. 725

CHAPTER 625

AN ACT TO AUTHORIZE MECKLENBURG COUNTY TO INCREASE THE SIZE OF ITS BOARD OF SOCIAL SERVICES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 108-8 and G.S. 108A-2 as enacted by Chapter 275, Session Laws of 1981 are each hereby amended by adding the following paragraphs thereto:

“'The Mecklenburg County Board of Commissioners may, but it is not required to, abolish the present five-member Mecklenburg County Board of Social Services and replace it with an appointed Mecklenburg County Board of Social Services of five or more members. Any decision to take such action shall be reported immediately in writing by the Chairman of the Board of Commissioners to the Department of Human Resources.

The number of members, the length of terms, any limitation on number of terms, and all other matters relating to the composition and membership of the Mecklenburg County Board of Social Services shall be determined by the Board of Commissioners before it abolishes the present Board of Social Services and creates the new Board of Social Services, except that two members shall be appointed by the Social Services Commission. All such matters, except as to the
appointments by the Social Services Commission, may be changed from time to
time thereafter by the Board of Commissioners without limitation, however.

Any new Mecklenburg County Board of Social Services created by the Board
of Commissioners pursuant to the authority herein granted shall have all the
powers, duties and responsibilities conferred upon other county boards of social
services by the General Statutes.”

Sec. 2. This act shall apply to Mecklenburg County only.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of
June, 1981.

H. B. 920 CHAPTER 626
AN ACT TO AMEND THE SPEEDY TRIAL LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-701(a)(2) and G.S. 15A-701(a)(2) are rewritten to read as follows:

“(2) Within 120 days from the first regularly scheduled criminal session of
superior court, for which a calendar has not been published at the time of notice
of appeal, held after the defendant has given notice of appeal in a misdemeanor
cause for trial de novo in the superior court;”.

Sec. 2. G.S. 15A-701(a)(3) is amended by adding “or is dismissed
pursuant to a finding of no probable cause pursuant to G.S. 15A-612” between
“G.S. 15A-703” and the comma on line 1 of the subdivision.

Sec. 3. G.S. 15A-701(a)(4) is amended by substituting “90” for “60” in
line 2 of the subdivision.

Sec. 4. G.S. 15A-701(a)(5) is amended by substituting “120” for “60” in
line 1 of the subdivision.

Sec. 5. G.S. 15A-701(b)(1) is rewritten as follows:

“(1) Any period of delay resulting from other proceedings concerning the
defendant including, but not limited to, delays resulting from:
a. A mental or physical examination of the defendant, including all time
when he is awaiting or undergoing treatment or examination, or a
hearing on his mental or physical capacity; or
b. Trials with respect to other charges against the defendant;
c. Interlocutory appeals; or

d. Hearings on any pretrial motions or the granting or denial of such
motions.
The period of delay under this subdivision must include all delay from the time
a motion or other event occurs that begins the delay until the time a judge
makes a final ruling on the motion or the event causing the delay is finally
resolved;”.

Sec. 6. G.S. 15A-701(b)(7) is amended by adding the following sentence
to the first paragraph:

“A superior court judge must not grant a motion for continuance unless the
motion is in writing and he has made written findings as provided in this
subdivision.”

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Sec. 7. G.S. 15A-701(b)(7) is amended by adding a new paragraph at the
eend of the subsection to read as follows:
"When a judge grants a continuance pursuant to this subsection, he may
specify in his order the period of time which shall be excluded from the time
within which the trial of the criminal case must begin."

Sec. 8. G.S. 15A-701(b)(10) is amended by deleting the word "and" at the
end of the subdivision and G.S. 15A-701(b)(11) is amended by substituting a
semicolon for a period at the end of the subdivision.

Sec. 9. G.S. 15A-701(b) is amended by adding the following new
subdivisions:

"(12) When a charge is dismissed by a judge other than under G.S. 15A-703 or
is dismissed pursuant to a finding of no probable cause pursuant to G.S.
15A-612, and afterwards a new indictment or information is filed against the
same defendant or the same defendant is arrested or served with criminal
process for the same offense, or an offense based on the same act or transaction
or on the same series of transactions connected together or constituting parts of
a single scheme or plan, any period of delay from the date the initial charge was
dismissed to the date the time limits for trial under this section would have
commenced to run as to the subsequent charge;

(13) Any period of delay from the time criminal process is served on a
defendant who has previously been called and failed until the time that the
district attorney receives notice that the criminal process has been served;

(14) Any period of delay from the time the defendant has been called and
failed in open court until the time that the district attorney receives notice that
the criminal process was stricken or was never issued; and

(15) Any period of delay from the time that a defendant has been returned
from court-ordered or -approved hospitalization, treatment, or examination
until the time that the district attorney receives notice that the defendant has
returned."

Sec. 10. G.S. 15A-701(a1) is amended by substituting "October 1, 1983"
for "October 1, 1981" in line 4 of the subsection.

Sec. 11. G.S. 15A-703 is amended by designating the present section as
subsection (a) and adding a new subsection (b) to read as follows:

"(b) The 120-day limitation as provided in G.S. 15A-701 is the State policy in
the district court division of the General Court of Justice, but none of the
sanctions provided in this section shall apply to the proceedings in the district
court division."

Sec. 12. This act is effective upon ratification; however, Section 11 shall expire October 1, 1983.

In the General Assembly read three times and ratified, this the 19th day of
June, 1981.
H. B. 947  CHAPTER 627

AN ACT TO ALLOW THE TRADITIONAL GENERAL LAW DEFINITION OF JUST COMPENSATION IN CONDEMNATION OF PRIVATELY OWNED PUBLIC UTILITIES BY REPEALING G.S. 40-7.1 WHICH LIMITS SUCH COMPENSATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 40-7.1 is repealed.
Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of June, 1981.

H. B. 977  CHAPTER 628

AN ACT TO REQUIRE THAT IN COUNTIES HAVING FIFTEEN OR MORE PRECINCTS, TWO SPECIAL REGISTRATION COMMISSIONERS SHALL BE APPOINTED, ONE EACH FROM THE TWO MAJOR POLITICAL PARTIES.

The General Assembly of North Carolina enacts:

Section 1. The first paragraph of G.S. 163-41(b) is deleted and the following inserted in lieu thereof:

"Appointment of Special Registration Commissioners. The county board of elections in those counties having 15 or more voting precincts shall appoint, in addition to registrars and judges, at least two persons of good repute and qualifications to act as special registration commissioners. In counties with less than 15 voting precincts the county board of elections may, in its discretion, appoint special registration commissioners. Persons appointed as special registration commissioners shall be appointed on the date on which registrars and judges are appointed pursuant to G.S. 163-41 or within 60 days thereafter and shall serve for two years, but the county board of elections may terminate their authority at any time without cause. In counties having 15 or more voting precincts the county chairman of each of the two political parties having the greatest voter registration in the State shall have the right to recommend two or more registered voters who are residents of the county for appointment as special registration commissioners. If such recommendations are received by the county board of elections at least five days prior to the date on which appointments of registrars and judges must be made, the county board of elections shall make one appointment from each list of names recommended."

Sec. 2. The second paragraph of G.S. 163-41(b), as it appears in the 1979 Supplement to Volume 3D is amended in the first line by deleting "In counties", and inserting "In all counties".

Sec. 3. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 19th day of June, 1981.
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H. B. 1039  CHAPTER 629
AN ACT TO ALLOW SANITARY DISTRICTS TO DISPOSE OF PROPERTY UNDER THE SAME PROCEDURES AS CITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-128 is amended by adding a new subdivision to read:

"(22) To dispose of any real or personal property belonging to it, according to the procedures prescribed in Article 12 of Chapter 160A of the General Statutes. For purposes of this subdivision, references in Article 12 of Chapter 160A to the ‘city’, the ‘council’, or a specific city official are deemed to refer, respectively, to the sanitary district, the sanitary district board, and the sanitary district official who most nearly performs the same duties performed by the specified city official."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of June, 1981.

H. B. 1158  CHAPTER 630
AN ACT TO JUSTIFY USE OF PAPER BALLOTS FOR WRITE-IN VOTES IN PRECINCTS WHERE MECHANICAL VOTING MACHINES ARE USED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-162(2), as the same appears in Volume 3D of the General Statutes is rewritten to read:

"(2) Persons who wish to write in names of candidates who are not on the ballot, if it is not practical to use voting machines to record write-in votes in particular precincts because of the horizontal or vertical printing limitations of G.S. 163-137, provided the county board of elections has been issued written approval from the State Board of Elections."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of June, 1981.

S. B. 15  CHAPTER 631
AN ACT RELATING TO SALES AND LEASES OF REAL PROPERTY BY THE ASHEVILLE CITY COUNCIL AND ASHEVILLE HOUSING AUTHORITY.

The General Assembly of North Carolina enacts:

Section 1. Section 1, Chapter 317, Session Laws of 1979, is rewritten to read:

"Section 1. In addition to the authority granted by Article 12 of Chapter 160A of the General Statutes, the City of Asheville is authorized to dispose of real property in accordance with provisions of Section 2 or 3 of this act by sale or lease. All references hereafter in this act or uses of the words ‘convey,’ ‘sale,’ ‘conveyances,’ ‘conveyance,’ ‘sold,’ or ‘sell’ shall be deemed to read and shall be defined as ‘convey or lease,’ ‘sale or lease,’ ‘conveyances or leases,’ ‘conveyance or lease,’ ‘sold or leased,’ or ‘sell or lease,’ as the same is applicable thereto."

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 19th day of June, 1981.

S. B. 20  CHAPTER 632
AN ACT RELATING TO THE DISPOSITION OF PROPERTY BY THE
CITY OF ASHEVILLE AT PRIVATE SALE OR LEASE TO FURTHER
THE PURPOSES OF URBAN DEVELOPMENT ACTION GRANTS.

The General Assembly of North Carolina enacts:

Section 1. Section 1, Chapter 81, Session Laws of 1979, is amended as follows:
(1) by amending line 2 of G.S. 160A-457(4) by deleting the word “further-
ance,” and inserting in lieu thereof the word “furtherance;”
(2) by amending lines 1 and 2 of G.S. 160A-457(5) by deleting the words
“convey at private sale,” and inserting in lieu thereof the words “convey or
lease at a private transaction;”
(3) by further amending G.S. 160A-457(5) in line 3 by deleting the word
“with,” and inserting in lieu thereof the word “within;”
(4) by amending G.S. 160A-457(5) in line 23 by deleting the words “Such
conveyance,” and inserting in lieu thereof the words “Such conveyance or
lease;” and
(5) by further amending G.S. 160A-457(5) in line 30 by deleting the words
“private sale,” and inserting in lieu thereof the words “private sale or lease.”
Sec. 2. This act applies only to the City of Asheville.
Sec. 3. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 19th day of June, 1981.

S. B. 545  CHAPTER 633
AN ACT TO UPDATE AND IMPROVE THE GOING OUT OF BUSINESS
SALE LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 66-76 is amended by inserting the following language
following the semicolon in line 5:
“distress sale’ shall mean and include all sales in which it is represented or
implied that going out of business is possible or anticipated, in which closing out
is referred to in any way, or in which it is implied that business conditions are
so difficult that the seller is forced to conduct the sale.”
Sec. 2. The first sentence of G.S. 66-77(a) is amended by inserting the
words “or a distress sale” before the word “unless”; by inserting between the
word “sale” and the period at the end of the sentence the words “or from the
officer designated by the Board of County Commissioners if the sale is
conducted in an unincorporated area”; and by adding the following sentence at
the end of the subsection: “Provided, the seller in a distress sale need not file an
inventory.”
Sec. 3. The first sentence of G.S. 66-77(b) is amended by inserting
between the words “town” and “in” the words “or county”; and by substituting
the phrase “fifty dollars ($50.00)” for the phrase “twenty-five dollars ($25.00)”.  

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Sec. 4. G.S. 66-77(c) is amended by inserting between the words “town” and “to” the words “or county”.
Sec. 5. G.S. 66-78 and 66-79 are amended by deleting the words “under a license as provided for in G.S. 66-77” in each section.
Sec. 6. G.S. 66-80 is amended by inserting between the words “otherwise” and “beyond” the words “or a distress sale”.
Sec. 7. G.S. 66-81 is amended by inserting between the word “otherwise” and the comma following that word the words “or a distress sale”.
Sec. 8. G.S. 66-84 is repealed.
Sec. 9. This act shall become effective July 1, 1981.
In the General Assembly read three times and ratified, this the 19th day of June, 1981.

H. B. 696  CHAPTER 634
AN ACT TO PERMIT A SPOUSE TO GIVE TESTIMONY IN A PATERNITY ACTION.

The General Assembly of North Carolina enacts:

Section 1. Article 7 of Chapter 8 of the General Statutes is amended by adding a new section, G.S. 8-57.2, to read:

“§ 8-57.2. Nonaccess testimony by spouses whenever paternity issue arises.—Whenever an issue of paternity of a child born or conceived during a marriage arises in any civil or criminal proceeding, the presumed father or the mother of such child is competent to give evidence as to any relevant matter regarding paternity of the child, including nonaccess to the present or former spouse, regardless of any privilege which may otherwise apply. No parent offering such evidence shall thereafter be prosecuted based upon that evidence for any criminal act involved in the conception of the child whose paternity is in issue and/or for whom support is sought, except for perjury committed in this testimony.”

Sec. 2. This act shall become effective October 1, 1981.
In the General Assembly read three times and ratified, this the 22nd day of June, 1981.

H. B. 821  CHAPTER 635
AN ACT TO CLARIFY THE AUTHORITY OF THE DEPARTMENT OF HUMAN RESOURCES TO OPERATE THE NORTH CAROLINA SCHOOL FOR THE DEAF AT MORGANTON AND THE EASTERN NORTH CAROLINA SCHOOL FOR THE DEAF AT WILSON.

Whereas, Chapter 1000, 1971 Session Laws, rewrote Article 41 of Chapter 115 of the General Statutes and provided in G.S. 115-337 that the North Carolina School for the Deaf at Morganton, the Eastern North Carolina School for the Deaf at Wilson and the Central North Carolina School for the Deaf shall be under the control and management of a Board of Directors; and

Whereas, Chapter 476, 1973 Session Laws, known as the Executive Organization Act of 1973, reorganized the Department of Human Resources and reconstituted the Board of Directors of the North Carolina Schools for the Deaf in Sections 157 through 160 thereof, later codified as G.S. 143B-173 through 143B-176; and

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Whereas, Chapter 476 repealed G.S. 115-337 and made no reference to the further maintenance and operation of the North Carolina School for the Deaf at Morganton and the Eastern North Carolina School for the Deaf at Wilson; and

Whereas, an amendment of the present Article 41 of Chapter 115 is appropriate to clarify the authority of the Department of Human Resources to maintain and operate all three of the existing schools for the deaf; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The title of Article 41 of Chapter 115 is rewritten to read as follows: “North Carolina Schools for the Deaf”.

Sec. 2. The first paragraph of G.S. 115C-123, as it appears in Chapter 423 of the 1981 Session Laws, is rewritten to read:

“§ 115C-123. Establishment; operations.—There are established, and there shall be maintained, the following schools for the deaf: the Eastern North Carolina School for the Deaf at Wilson (K-12); the Central North Carolina School for the Deaf at Greensboro (K-8), and the North Carolina School for the Deaf at Morganton (K-12). The Department of Human Resources shall be responsible for the operation and maintenance of the schools.”

Sec. 3. G.S. 66-58(b) (7) is amended to read as follows: “The North Carolina Schools for the Deaf.”

Sec. 4. G.S. 122-16 is amended in line 3 by substituting the words “the superintendents” for “superintendent” and by substituting the word “Schools” for “School”.

Sec. 5. G.S. 122-33 is amended in line 2 by substituting the word “superintendents” for “superintendent” and in line 3 substituting the word “Schools” for “School”.

Sec. 6. The authority of the Department of Human Resources to maintain and operate and to make expenditures for the North Carolina School for the Deaf at Morganton and the Eastern North Carolina School for the Deaf at Wilson from the effective date of Chapter 476, 1973 Session Laws, to the effective date of this act is hereby granted, confirmed and validated.

Sec. 7. This act is effective July 1, 1981.

In the General Assembly read three times and ratified, this the 22nd day of June, 1981.

H. B. 1015

CHAPTER 636

AN ACT TO REPEAL VARIOUS PROVISIONS OF CHAPTER 135 PROVIDING FOR THE PURCHASE OF RETIREMENT SERVICE CREDITS FOR NON-STATE SERVICE FOR NEW MEMBERS OF THE TEACHERS’ AND STATE EMPLOYEES’ RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 135-4(l)(6), (l), (n), and (o) and the second sentence of G.S. 135-8(b)(5) are repealed; provided, however, any inchoate or accrued rights of any member on July 1, 1981, shall not be diminished.

Sec. 2. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 22nd day of June, 1981.
AN ACT CONCERNING THE NOMINATION OF UNAFFILIATED CANDIDATES BY PETITION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-122 is rewritten to read:

"§ 163-122. Unaffiliated candidates nominated by petition.—(a) Any qualified voter who seeks to have his name printed on the general election ballot as an unaffiliated candidate shall:

(1) If the office is a statewide office, file written petitions with the State Board of Elections supporting his candidacy for a specified office. These petitions must be filed with the State Board of Elections on or before 12:00 noon on the last Friday in June preceding the general election and must be signed by qualified voters of the State equal in number to two percent (2%) of the total number of registered voters in the State as reflected by the most recent statistical report issued by the State Board of Elections. Each petition shall be presented to the chairman of the board of elections of the county in which the signatures were obtained. The chairman shall examine the names on the petition and place a check mark on the petition by the name of each signer who is qualified and registered to vote in his county and shall attach to the petition his signed certificate. Said certificates shall state that the signatures on the petition have been checked against the registration records and shall indicate the number of signers to be qualified and registered to vote in his county. The chairman shall return each petition, together with the certificate required in this section, to the person who presented it to him for checking. Verification by the chairman of the county board of elections shall be completed within two weeks from the date such petitions are presented and a fee of five cents (5¢) for each name appearing on the petition has been received.

(2) If the office is a district office comprised of two or more counties, file written petitions with the State Board of Elections supporting his candidacy for a specified office. These petitions must be filed with the State Board of Elections on or before 12:00 noon on the last Friday in June preceding the general election and must be signed by qualified voters of the State equal in number to five percent (5%) of the total number of registered voters in the district as reflected by the latest statistical report issued by the State Board of Elections. Each petition shall be presented to the chairman of the board of elections of the county in which the signatures were obtained. The chairman shall examine the names on the petition and the procedure for certification shall be the same as specified in (1) above.

(3) If the office is a county office or a single county legislative district, file written petitions with the chairman or supervisor of the county board of elections supporting his candidacy for a specified county office. These petitions must be filed with the county board of elections on or before 12:00 noon on the last Friday in June preceding the general election and must be signed by qualified voters of the county equal in number to ten percent (10%) of the total number of registered voters in the county as reflected by the most recent statistical report issued by the State Board.
of Elections. Each petition shall be presented to the chairman or supervisor of the county board of elections. The chairman shall examine, or cause to be examined, the names on the petition and the procedure for certification shall be the same as specified in (1) above.

(4) If the office is a partisan municipal office, file written petitions with the chairman or supervisor of the county board of elections in the county wherein the municipality is located supporting his candidacy for a specified municipal office. These petitions must be filed with the county board of elections on or before the time and date specified in G.S. 163-296 and must be signed by the number of qualified voters specified in G.S. 163-296. The procedure for certification shall be the same as specified in (1) above.

Upon compliance with the provisions of (1), (2), (3), or (4) of this subsection, the board of elections with which the petitions and affidavit have been timely filed shall cause the unaffiliated candidate’s name to be printed on the general election ballots in accordance with G.S. 163-14C.

An individual whose name appeared on the ballot in a primary election preliminary to the general election shall not be eligible to have his name placed on the general election ballot as an unaffiliated candidate for the same office in that year.

(b) Form of petition. Petitions requesting an unaffiliated candidate to be placed on the general election ballot shall contain on the heading of each page of the petition in bold print or in all capital letters the words: "THE UNDERSIGNED REGISTERED VOTERS IN _______ COUNTY HEREBY PETITION ON BEHALF OF ________ AS AN UNAFFILIATED CANDIDATE IN THE NEXT GENERAL ELECTION. THE UNDERSIGNED HEREBY PETITION THAT SUBJECT CANDIDATE BE PLACED ON THE APPROPRIATE BALLOT UPON COMPLIANCE WITH THE PROVISIONS CONTAINED IN G.S. 163-122."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of June, 1981.

H. B. 1061

CHAPTER 638

AN ACT TO ENCOURAGE APPROPRIATE WINDOW PLACEMENT AND SOLAR ENERGY SYSTEMS TO CONSERVE ENERGY IN PUBLIC SCHOOL FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-521(c), as enacted by Chapter 423 of the 1981 Session Laws, is amended by adding a new paragraph after the first paragraph to read:

"In the design and construction of new school facilities and in the repair and renovation of existing school facilities, the local board of education shall consider the placement of windows to use the climate of North Carolina for both light and ventilation in case of power shortages. A local board shall also consider the installation of solar energy systems in the school facilities whenever practicable."

Sec. 2. This act is effective upon ratification.

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In the General Assembly read three times and ratified, this the 22nd day of June, 1981.

H. B. 1073  CHAPTER 639
AN ACT TO PERMIT SCHOOL EMPLOYEES TO CHOOSE TO TAKE ANNUAL LEAVE OR TO MAKE UP DAYS ON WHICH EMPLOYEES MUST REPORT FOR WORK BUT PUPILS ARE NOT REQUIRED TO ATTEND SCHOOL DUE TO INCLEMENT WEATHER.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-302(a)(1) as it appears in Chapter 423 of the 1981 Session Laws is amended by deleting the period at the end of the fourth sentence and substituting: "; on a day that employees are required to report for a workday but pupils are not required to attend school due to inclement weather, a teacher may elect not to report due to hazardous travel conditions and to take one of his annual vacation days or to make up the day at a time agreed upon by the employee and his immediate supervisor or principal."

Sec. 2. G.S. 115C-316(a)(1) as it appears in Chapter 423 of the 1981 Session Laws is amended by deleting the period at the end of the second sentence and substituting: "; on a day that employees are required to report for a workday but pupils are not required to attend school due to inclement weather, an employee may elect not to report due to hazardous travel conditions and to take one of his annual vacation days or to make up the day at a time agreed upon by the employee and his immediate supervisor or principal."

Sec. 3. G.S. 115C-316(a)(2) as it appears in Chapter 423 of the 1981 Session Laws is amended by deleting the period at the end of the fourth sentence and substituting: "; on a day that employees are required to report for a workday but pupils are not required to attend school due to inclement weather, an employee may elect not to report due to hazardous travel conditions and to take one of his annual vacation days or to make up the day at a time agreed upon by the employee and his immediate supervisor or principal."

Sec. 4. G.S. 115C-285(a)(1) as it appears in Chapter 423 of the 1981 Session Laws is amended by deleting the period at the end of the second sentence and substituting: "; on a day that employees are required to report for a workday but pupils are not required to attend school due to inclement weather, an employee may elect not to report due to hazardous travel conditions and to take one of his annual vacation days or to make up the day at a time agreed upon by the employee and his immediate supervisor."

Sec. 5. This act shall become effective July 1, 1981, and shall apply to school years beginning with the 1981-82 school year.

In the General Assembly read three times and ratified, this the 22nd day of June, 1981.
H. B. 1084  CHAPTER 640
AN ACT TO EXTINGUISH CERTAIN LIENS ON FRUITS AND VEGETABLES SOLD AT AUCTION.

The General Assembly of North Carolina enacts:

Section 1. The caption to Article 12 of Chapter 44 is rewritten to read:
"Liens on Certain Agricultural Products."

Sec. 2. Article 12 of Chapter 44 is amended by adding a new section, G.S. 44-69.2, to read:
"§ 44-69.2. Effective period for liens on fruits and vegetables. — No security interest in or lien on fruits and vegetables sold at a regular sale at an auction market at which the Department of Agriculture furnishes certified inspectors pursuant to Article 17 of Chapter 106 is effective for any purpose more than six months after the date of the sale. This section does not absolve any person from prosecution and punishment for crime."

Sec. 2. This act shall become effective July 1, 1981, and shall apply only to liens created after that date.

In the General Assembly read three times and ratified, this the 22nd day of June, 1981.

H. B. 1106  CHAPTER 641
AN ACT TO INCLUDE LOCAL BOARD OF EDUCATION WITHIN THE DEFINITION OF UNITS OF LOCAL GOVERNMENT FOR THE PURPOSE OF THE INTER-LOCAL COOPERATION ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-460(2) is amended by adding after the words "consolidated city-county," and before the words "sanitary district" the words "local board of education".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of June, 1981.

H. B. 1155  CHAPTER 642
AN ACT TO ALLOW THE PAROLE COMMISSION TO PAROLE AND TERMINATE AN INMATE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-1372 is amended by adding a new subsection (d) as follows:
"(d) Parole and Terminate. The Parole Commission is authorized simultaneously to parole and terminate supervision of a prisoner when such prisoner has less than 180 days remaining on his maximum sentence, and when the Commission finds that such action will not be incompatible with the public interest."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of June, 1981.
H. B. 1181  CHAPTER 643
AN ACT TO ALLOW UNION COUNTY TO COLLECT UTILITY BILLS AS IF THEY WERE TAXES DUE THE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Whenever water supply or distribution or sewage collection or disposal is provided by a county under Article 15 of Chapter 153A of the General Statutes, and the person legally responsible for payment of the rents, rates, fees or charges for the service fails to pay such rents, rates, fees or charges for more than 60 days after they became delinquent, the county providing the service may treat the amount due as if it were a tax due to the county and may proceed to collect the amount due through the use of levy on tangible personal property under G.S. 105-367 or attachment and garnishment as set out in G.S. 105-368.

Sec. 2. This act applies to Union County only.

Sec. 3. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 22nd day of June, 1981.

S. B. 120  CHAPTER 644
AN ACT TO AMEND STATUTES OF LIMITATION CONCERNING IMPROVEMENTS TO REAL PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1-50(5) is rewritten to read as follows:

"a. No action to recover damages based upon or arising out of the defective or unsafe condition of an improvement to real property shall be brought more than six years from the later of the specific last act or omission of the defendant giving rise to the cause of action or substantial completion of the improvement.
b. For purposes of this subdivision, an action based upon or arising out of the defective or unsafe condition of an improvement to real property includes:
1. actions to recover damages for breach of a contract to construct or repair an improvement to real property;
2. actions to recover damages for the negligent construction or repair of an improvement to real property;
3. actions to recover damages for personal injury, death or damage to property;
4. actions to recover damages for economic or monetary loss;
5. actions in contract or in tort or otherwise;
6. actions for contribution or indemnification for damages sustained on account of an action described in this subdivision;
7. actions against a surety or guarantor of a defendant described in this subdivision;
8. actions brought against any current or prior owner of the real property or improvement, or against any other person having a current or prior interest therein;
9. actions against any person furnishing materials, or against any person who develops real property or who performs or furnishes the design, plans, specifications, surveying, supervision, testing or observation of
construction, or construction of an improvement to real property, or a repair to an improvement to real property.

c. For purposes of this subdivision, 'substantial completion' means that degree of completion of a project, improvement or specified area or portion thereof (in accordance with the contract, as modified by any change orders agreed to by the parties) upon attainment of which the owner can use the same for the purpose for which it was intended. The date of substantial completion may be established by written agreement.

d. The limitation prescribed by this subdivision shall not be asserted as a defense by any person in actual possession or control, as owner, tenant or otherwise, of the improvement at the time the defective or unsafe condition constitutes the proximate cause of the injury or death for which it is proposed to bring an action, in the event such person in actual possession or control either knew, or ought reasonably to have known, of the defective or unsafe condition.

e. The limitation prescribed by this subdivision shall not be asserted as a defense by any person who shall have been guilty of fraud, or willful or wanton negligence in furnishing materials, in developing real property, in performing or furnishing the design, plans, specifications, surveying, supervision, testing or observation of construction, or construction of an improvement to real property, or a repair to an improvement to real property, or to a surety or guarantor of any of the foregoing persons, or to any person who shall wrongfully conceal any such fraud, or willful or wanton negligence.

f. This subdivision prescribes an outside limitation of six years from the later of the specific last act or omission or substantial completion, within which the limitations prescribed by G.S. 1-52 and G.S. 1-53 continue to run. For purposes of the three-year limitation prescribed by G.S. 1-52, a cause of action based upon or arising out of the defective or unsafe condition of an improvement to real property shall not accrue until the injury, loss, defect or damage becomes apparent or ought reasonably to have become apparent to the claimant. However, as provided in this subdivision, no action may be brought more than six years from the later of the specific last act or omission or substantial completion.

g. The limitation prescribed by this subdivision shall apply to the exclusion of G.S. 1-15(c), G.S. 1-52(16) and G.S. 1-47(2)."

Sec. 2. This act shall become effective October 1, 1981, but shall not affect pending litigation.

In the General Assembly read three times and ratified, this the 22nd day of June, 1981.
CHAPTER 645  Session Laws—1981

S. B. 306  CHAPTER 645

AN ACT TO PROVIDE FOR REQUESTING AND GIVING NOTICE OF A SECOND PRIMARY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-111(c)(1) and (2), as the same appears in Volume 3D of the General Statutes, are amended by rewriting the language before the colon in each to read:

"(1) A candidate who is apparently entitled to demand a second primary, according to the unofficial results, for one of the offices listed below, and desiring to do so, shall file a request for a second primary in writing or by telegram with the Executive Secretary-Director of the State Board of Elections no later than 12:00 noon on the seventh day (including Saturdays and Sundays) following the date on which the primary was conducted, and such request shall be subject to the certification of the official results by the State Board of Elections. If the vote certification by the State Board of Elections determines that a candidate who was not originally thought to be eligible to call for a second primary is in fact eligible to call for a second primary, the Executive Secretary-Director of the State Board of Elections shall immediately notify such candidate and permit him to exercise any options available to him within a 48-hour period following the notification.

(2) A candidate who is apparently entitled to demand a second primary, according to the unofficial results, for one of the offices listed below and desiring to do so, shall file a request for a second primary in writing or by telegram with the Chairman or Supervisor of the county board of elections no later than 12:00 noon on the seventh day (including Saturdays and Sundays) following the date on which the primary was conducted, and such request shall be subject to the certification of the official results by the County Board of Elections."

Sec. 2. G.S. 163-111(c) is amended by adding a new subdivision (3) to read:

"(3) Immediately upon receipt of a request for a second primary the appropriate board of elections, State or county, shall notify all candidates entitled to participate in the second primary, by telephone followed by written notice, that a second primary has been requested and of the date of the second primary."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of June, 1981.
S. B. 312  

CHAPTER 646  
AN ACT TO PROHIBIT THE POSSESSION, WHETHER OPENLY OR CONCEALED, OF ANY WEAPON WHILE ON ANY STATE PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. Article 35 of Chapter 14 of the North Carolina General Statutes is hereby amended by adding a new section to read as follows:

"§ 14-269.4. Weapons on State property.—It shall be unlawful for any person to possess, or carry, whether openly or concealed, any deadly weapon, not used solely for instructional or officially sanctioned ceremonial purposes in the State Capitol Building, the Executive Mansion, the Western Residence of the Governor, or on the grounds of any of these buildings.

This section shall not apply to:
(i) officers and enlisted personnel of the armed forces when in the discharge of their official duties as such and acting under orders requiring them to carry arms and weapons,
(ii) civil officers of the United States while in the discharge of their official duties,
(iii) officers and soldiers of the militia and the State guard when on duty or called into service,
(iv) officers or employees of the State, or any county, city, or town charged with the execution of the laws of the State, when acting in the discharge of their official duties if authorized by law to carry weapons,
(v) State-owned rest areas, rest stops along the highways, and State-owned hunting and fishing reservations.

Any person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be punished in the discretion of the court by fine or imprisonment or by both such fine and imprisonment."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of June, 1981.

S. B. 486  

CHAPTER 647  
AN ACT RELATING TO THE WINSTON-SALEM FIREMEN'S RETIREMENT FUND ASSOCIATION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 388 of the 1973 Session Laws, as amended by Chapter 15 of the 1977 Session Laws and Chapter 284 of the 1979 Session Laws, is further amended as follows:

(1) By rewriting Section 9 to read:

"The Trustees shall elect a custodian of all funds and property of the Association, provided that such custodian shall have first offered proof satisfactory to the Trustees, by bond or otherwise, that it is and will be financially responsible for all property coming into its hands in a fiduciary capacity. Said custodian shall not release any of the funds or property of the Association for reasons other than investment of such funds or property except upon the written authorization of the Trustees.

The Trustees shall also elect an investment manager who may or may not be the same person as the custodian. Any such investment manager shall be a
CHAPTER 647    Session Laws—1981

bank, or an insurance company, or an entity registered under the Investment Adviser’s Act of 1940. The investment manager shall be authorized to invest and reinvest the funds or property of the Association in the investment manager’s own judgment and discretion. The investment manager shall report to the Trustees on a periodic basis, but not less frequently than each calendar quarter. The investment manager (including said custodian when acting as investment manager) shall not be liable to the Association for any act or failure to act by it, except for gross negligence or willful misconduct.”

(2) By rewriting the last sentence of Section 12 to read:
“The treasurer of the Association shall post yearly at each fire station and at the office of each police district, as soon as practicable following the end of each year, a financial statement of the Association.”

(3) By rewriting Section 13 to read:
“The treasurer of the Association shall deposit with the custodian all funds and property that may come into his hands for the Association. The said treasurer shall obtain a receipt from the custodian for all funds and property delivered to the custodian by the treasurer. Said custodian shall invest and reinvest such funds and property as directed by the investment manager appointed under Section 9. Notwithstanding any contrary provisions of Section 9 or of this section, the Trustees are specifically authorized and empowered to invest funds of the Association by depositing such funds with the Winston-Salem Firemen’s Credit Union on condition that the Association shall receive interest at an annual rate agreed upon by the Association and such credit union.”

(4) By rewriting Section 14 to read:
“The custodian and the investment manager shall receive compensation for services rendered as may be agreed upon from time to time in writing by the Trustees and by the custodian (with respect to services rendered by the custodian) or the investment manager (with respect to services rendered by the investment manager). The Trustees shall have the authority to employ legal counsel when, in the opinion of the Trustees, legal counsel is necessary. In case of such employment, said counsel shall be paid such fees as may be fair and reasonable as agreed upon in writing by the Trustees and the counsel so employed.”

(5) By rewriting Section 15 to read:
“On or before July 31, 1981, the Board of Trustees of the Winston-Salem Firemen’s Relief Fund shall transfer to the Board of Trustees of the Winston-Salem Firemen’s Retirement Fund Association out of properties and funds belonging to the Winston-Salem Firemen’s Relief Fund of the City of Winston-Salem the sum of sixty thousand dollars ($60,000) in cash or assets. The assets so transferred pursuant to the immediately preceding sentence shall be transferred upon the basis of the fair market value thereof as of the date of transfer, and the particular assets to be transferred shall be determined by joint action of the Board of Trustees of the Winston-Salem Firemen’s Relief Fund and the Board of Trustees of the Winston-Salem Firemen’s Retirement Fund Association. All property of the association is hereby relieved from any and all claims of the persons entitled to relief from the Winston-Salem Firemen’s Relief Fund. The North Carolina Firemen’s Association, its officers, members, boards and committees, are also hereby relieved of any claim of any kind whatsoever which may be based on past service, present service or future
service in the Winston-Salem Fire Department. The Firemen's Relief Fund of the City of Winston-Salem, and the officers, members, boards and committees of said Fund, are also hereby relieved of any claim of any kind whatsoever which may be based on past, present or future service in the Winston-Salem Fire Department, if any, so long as any claimant is entitled to benefits or pension under the provisions of this act."

(6) By rewriting subsection (c) of Section 16 to read:

"(c) Any member whose employment by the Fire Department or as a Public Safety Officer shall be terminated on or after the ratification date for any reason, including transfer to another department in the employment of the City, shall be terminated immediately as a member; provided, that any member who is transferred on or after July 1, 1981, to another department of the City of Winston-Salem in a fire-related job shall not become a terminated member if the following conditions are met: (i) within 15 days following the date of such transfer he shall file with the Trustees a written election to continue as a member; and (ii) such member shall be notified in writing by the secretary of the Association on or before the date of transfer of his right to make the election. If a terminated member shall reenter employment of the Fire Department, his eligibility to become a member shall be determined at that time in accordance with Section 2 hereof, except to the extent such individual may be entitled to elect to become a member upon a transfer of employment as provided in subsection (a) of this Section 16."

(7) By rewriting subsection (d) of Section 16 to read:

"(d) In determining the number of years of continuous employment of a member, there shall be taken into account all years for which he shall make contributions in accordance with subsection (a) or (e) of this Section 16 or Section 19."

(8) By adding a new subsection (e) to Section 16 to read:

"(e) If any member of the Association was employed by the Fire Department as a cadet, such member's number of years of employment as a cadet may be added to the period of his continuous employment with the City of Winston-Salem if, by July 31, 1981, such member contributes to the Association an amount equal to twelve dollars ($12.00) per month for the time he was a cadet, plus interest at the rate of six percent (6%) per annum, computed on the amount accrued as of the end of each fiscal year of the Association."

(9) By deleting in subsections (a)(1), (a)(2), and (b) of Section 16 the words "interest at the rate of four and one-half percent (4 1/2%) per annum, compounded annually" wherever they appear and substituting therefor "interest at the rate of six percent (6%) per annum, computed on the amount accrued as of the end of each fiscal year of the Association".

(10) By rewriting Section 17 to read:

"The Treasurer of the City of Winston-Salem shall make a monthly deduction from the salary of each member of the Association (except for members in the employ of the Police Department) due him by the City of Winston-Salem in the amount directed in writing by the Trustees, not to exceed ten dollars ($10.00) per month prior to July 1, 1981, and twelve dollars ($12.00) per month following June 30, 1981, and the amount so deducted shall be turned over monthly by the said Treasurer to the treasurer of the Association, who in turn will deliver the same to the custodian of the Association as hereinbefore
provided, and the Association shall have the authority to accept donations from any and all sources whatsoever."

(11) By deleting in the first paragraph of Section 19 the words "Bureau of Public Safety".

(12) By adding the following new sentence at the end of the first paragraph of Section 19:

"Provided, that if a member has 30 years of employment with the City of Winston-Salem, but such service is not continuous solely because of a leave of absence lasting not more than a year and not described in Section 26, such member shall be deemed to have 30 years of continuous employment with the City; and provided further, that if a member has less than 30 years of employment with the City but the sum of his years of employment with the City plus any leave of absence lasting not more than one year and not described in Section 26, equals or exceeds 30 years, the period of such leave shall be deemed to be continuous employment with the City if such member contributes to the Association twelve dollars ($12.00) for each month he was on such leave, plus interest at the rate of six percent (6%) per annum, computed on the amount accrued as of the end of each fiscal year of the Association."

(13) By rewriting the second paragraph of Section 19 to read:

"The amount of the monthly pension for each member who retires shall be determined in accordance with the following table:

<table>
<thead>
<tr>
<th>On or After</th>
<th>Before</th>
<th>Monthly Pension</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 1, 1974</td>
<td>July 1, 1974</td>
<td>$100</td>
</tr>
<tr>
<td>January 1, 1977</td>
<td>January 1, 1977</td>
<td>$110</td>
</tr>
<tr>
<td>July 1, 1981</td>
<td>July 1, 1981</td>
<td>$135</td>
</tr>
<tr>
<td>July 1, 1982</td>
<td>July 1, 1982</td>
<td>$145</td>
</tr>
<tr>
<td>July 1, 1983</td>
<td>July 1, 1983</td>
<td>$155</td>
</tr>
<tr>
<td>July 1, 1984</td>
<td>July 1, 1984</td>
<td>$165</td>
</tr>
<tr>
<td>July 1, 1985</td>
<td>July 1, 1985</td>
<td>$175</td>
</tr>
</tbody>
</table>

Payments shall be subject to the provisions of Section 18 of this act."

(14) By rewriting the second paragraph of Section 20 to read:

"In the case of such a disabled participant, the amount of the monthly benefit shall be determined in accordance with the following table:

<table>
<thead>
<tr>
<th>On or After</th>
<th>Before</th>
<th>Monthly Pension</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 1, 1974</td>
<td>July 1, 1974</td>
<td>$3.00 times years of service, but not to exceed $75.00</td>
</tr>
<tr>
<td>January 1, 1977</td>
<td>January 1, 1977</td>
<td>$4.00 times years of service, but not to exceed $100.00</td>
</tr>
<tr>
<td>July 1, 1981</td>
<td>July 1, 1981</td>
<td>$5.40 times years of service, but not to exceed $135.00</td>
</tr>
<tr>
<td>July 1, 1982</td>
<td>July 1, 1982</td>
<td>$5.80 times years of service, but not to exceed $145.00</td>
</tr>
<tr>
<td>July 1, 1983</td>
<td>July 1, 1983</td>
<td>$6.20 times years of service, but not to exceed $155.00</td>
</tr>
<tr>
<td>July 1, 1984</td>
<td>July 1, 1984</td>
<td>$6.60 times years of service, but not to exceed $165.00</td>
</tr>
</tbody>
</table>
S. B. 561

**CHAPTER 648**

AN ACT TO ENABLE THE CITY OF GASTONIA TO ESTABLISH AN AIRPORT AUTHORITY FOR THE MAINTENANCE AND OPERATION OF AIRPORT FACILITIES IN GASTON COUNTY.

The General Assembly of North Carolina enacts:

**Section 1.** There is hereby created the "Gastonia Airport Authority" (hereinafter referred to as "Airport Authority") which shall be a body politic and corporate, having the powers and jurisdiction hereinafter enumerated and such other and additional powers as shall be conferred upon it by future acts of the General Assembly.

**Sec. 2.** (a) The Airport Authority shall consist of five members, each of whom shall be a resident of the City of Gastonia. No member of the Gastonia Airport Authority shall be an employee of said Authority.

(b) The City Council of the City of Gastonia shall appoint the members of said Authority to staggered terms of three years. The terms of the initial five members of the Airport Authority shall be as follows: two members shall be appointed for a term of three years, two members shall be appointed for a term of two years, and one member shall be appointed for a term of one year. Thereafter, all terms shall be for three years.

(c) Upon the occurrence of a vacancy on the said Airport Authority, such vacancy will be filled within 60 days after notice thereof by the City Council.

(d) Each of the members of the Airport Authority and each successor shall take and subscribe to an oath of office before an official authorized to administer oaths and file certified copies of the same with the City Clerk.

**Sec. 3.** The members shall, for the purpose of doing business, constitute the Board of Directors of the Airport Authority, which may adopt suitable bylaws for its management. The members of the Board of Directors shall receive such compensation, per diem or otherwise, as the Gastonia City Council may from time to time determine and be paid their actual expenses incurred in transacting the business and at the instance of the Airport Authority.
Sec. 4. The City Council of the City of Gastonia is hereby authorized to appropriate and use funds derived from any source permitted by the laws of the State of North Carolina to carry out the provisions of this act as to the administration, establishment or maintenance of an airport and its facilities and such funds may be expended on such basis as may be determined by the Airport Authority. The Airport Authority shall be subject to the Local Government Budget and Fiscal Control Act.

Sec. 5. The fiscal year of the Airport Authority shall begin July 1 and end on June 30. On or before the first day of May of each calendar year, the Airport Authority shall prepare and adopt a proposed budget for the next ensuing fiscal year and file copies of such proposed budget with the City Council of the City of Gastonia.

Sec. 6. (a) The City Council shall annually designate one of the members of the Airport Authority as chairman. The Airport Authority shall appoint from its members a vice chairman, and other officers as it may deem necessary for the orderly conduct of its business. A majority of the members shall control the decisions of the Airport Authority, and each member of the Airport Authority, including the chairman shall have one vote. A majority of the duly appointed and qualified members of the Airport Authority shall constitute a quorum.

(b) The Airport Authority shall hold meetings at least monthly at such times and places as it from time to time may designate and at such other times on the call of the chairman or by two voting members of the Airport Authority, provided at least five days’ notice is given or such notice is waived in each instance by all members. All meetings of the Airport Authority shall be conducted in accordance with Article 33C of Chapter 143 of the General Statutes.

Sec. 7. The Airport Authority is hereby authorized and empowered to acquire from the City of Gastonia by agreement therewith, and the City of Gastonia is hereby authorized and empowered to grant and convey either by gift or for such consideration as it may deem wise, any real or personal property which it now owns or may hereafter acquire, and which may be necessary for the construction, operation and maintenance of an airport in Gaston County; provided, however, all real or personal property conveyed by the City to the Airport Authority shall revert to the City immediately upon termination of the existence of the Airport Authority.

Sec. 8. The Airport Authority shall constitute a body, both corporate and politic, and shall have the following powers and authority:

(1) To purchase, acquire, establish, construct, own, control, lease, equip, improve, maintain, and regulate airports or landing fields for the use of airplanes and other aircraft within the limits of Gaston County and for any of such purposes, to purchase, improve, own, hold, lease and/or operate real or personal property.

(2) To borrow money as provided by the Local Government Finance Act.

(3) To sue or be sued in the name of said Airport Authority, to acquire by purchase and to hold lands for the purpose of constructing, maintaining, or operating an airport within the limits of Gaston County, and to make such contracts and to hold such personal property as may be necessary for the exercise of the powers of the Airport Authority. The Airport Authority may
acquire by purchase, or otherwise, any existing lease, leasehold right or other interest in any existing airport located in Gaston County.

(4) To charge and collect reasonable and adequate fees and rents for the use of the airport property and facilities, and for services rendered in the operation thereof.

(5) To make all reasonable rules and regulations as it deems necessary for the proper administration, maintenance, and operation of the airport and to provide penalties for the violation of such rules and regulations; provided, said rules and regulations and schedules of fees shall not be in conflict with the laws of the State of North Carolina, and the applicable rules and regulations of the Federal Aviation Administration.

(6) To issue bonds pursuant to the Local Government Revenue Bond Act.

(7) To sell, or otherwise dispose of, any interest in property, real or personal, belonging to the Airport Authority, subject, however, to all applicable North Carolina laws pertaining to sale of public property and by and with the consent of the City Council.

(8) To purchase such insurance as the Airport Authority shall deem necessary.

(9) To invest or reinvest its funds in the same manner and subject to the same restrictions as local governments under the Local Government Budget and Fiscal Control Act.

(10) To purchase any of its outstanding bonds or notes.

(11) To operate, own, lease, control, regulate, or grant to others the right to operate upon the airport premises, restaurants, snack bars, vending machines, food and beverage dispensing outlets, rental car services, catering services, novelty shops, insurance sales, advertising media, merchandising outlets, motels, hotels, barber shops, automobile parking and storage facilities, automobile service stations, garage service facilities, personal service establishments, and any and all other types of facilities as may be useful, needed or desired and directly or indirectly related to the administration, maintenance and furnishing to the public of complete air terminal services and facilities.

(12) To lease for a term not to exceed 25 years, and for purposes not inconsistent with the grants and agreements under which the airport is held, real or personal property under the supervision of or administered by the Airport Authority.

(13) To contract with persons, firms or corporations for terms not to exceed 25 years, for the operation of airline-scheduled passenger and freight flights, nonscheduled flights, and any other airplane activities not inconsistent with said grant agreements under which the airport property is held, and to charge and collect reasonable and adequate fees, charges and rents for the use of such property or for services rendered in the operation thereof.

(14) To erect and construct buildings, hangars, shops and other improvements and facilities, not inconsistent with or in violation of the agreements applicable to and the grants under which the real property of the airport is held; to lease the same for a term or terms not to exceed 25 years; to borrow money for use in making or paying for such improvements and facilities, secured by and on the credit only of the lease agreements in respect thereto, to pledge and assign such leases and lease agreements as security for loans herein authorized.
(15) To possess the same exemptions in respect to payment of taxes and license fees as provided for municipal corporations by the laws of the State of North Carolina.

(16) To exercise all of the powers conferred upon municipalities by Chapter 63 of the General Statutes.

Sec. 9. Any lands, air easements, and rights-of-way acquired, owned, controlled, or occupied by said Airport Authority shall, and are hereby declared to be acquired, owned, controlled and occupied for public purposes.

Sec. 10. Private property needed by the Airport Authority for the administration, operation or expansion of an airport may be acquired by gift, devise, or may be acquired by private purchase or by the exercise of the power of eminent domain, under any procedures permitted municipal corporations by the General Statutes.

Sec. 11. Air navigation easements needed by the Airport Authority for an airport may be acquired by gift, devise, or private purchase or by the exercise of the power of eminent domain by said Airport Authority under any procedures permitted municipal corporations by the General Statutes.

Sec. 12. The Airport Authority shall make an annual report to the City Council of the City of Gastonia, setting forth in detail the operations and transactions conducted by it pursuant to this act. The Airport Authority shall be regarded as a corporate instrumentality for the purpose of administering, maintaining and developing an airport, but it shall have no power to pledge the credit of or impose any obligations upon the City of Gastonia.

Sec. 13. The Airport Authority is authorized to employ an airport manager, airport personnel, agents, engineers, attorneys, and other persons whose services may be deemed by the Airport Authority to be necessary or useful in carrying out the provisions of this act. Members of the Airport Authority shall not be personally liable, in any manner, for their acts as members of the Airport Authority, except for misfeasance or malfeasance.

Sec. 14. The Airport Authority shall have the right and is empowered to expend funds appropriated to it by the City of Gastonia, and is empowered to enter into contracts and pledge the credit of the Airport Authority to the extent of the monies appropriated for its use.

Sec. 15. All rights and powers given to counties and municipalities by the Statutes of North Carolina, which may not be in effect or be enacted in the future relating to the development, regulation and control of municipal airports and the regulation of aircraft, are hereby vested in the said Airport Authority.

Sec. 16. The powers granted to the Airport Authority, including the specific powers contained in Section 15 hereof, shall not be effective until such time as the members of the Airport Authority have been appointed by the City Council and nothing contained herein shall require the City Council to make initial appointments to said Airport Authority, it being the specific intent of this legislation to enable but not require the formation of the Gastonia Airport Authority.

Sec. 17. If any part or parts of this act shall be held to be unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this act, and all laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 18. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 22nd day of June, 1981.

S. B. 598

CHAPTER 649

AN ACT TO REDEFINE THE ELECTORAL DISTRICTS OF THE CITY OF LUMBERTON, AND TO VALIDATE ALL ELECTIONS AND ACTIONS OF THAT CITY.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 237, Session Laws of 1967, is repealed.

Sec. 2. The Charter of the City of Lumberton, being Chapter 115, Session Laws of 1963, as amended by Section 12 of Chapter 282, Session Laws of 1965, and Section 1, Chapter 250, Session Laws of 1969, is amended by rewriting Section 13 of Article III of the Charter to read:

"Sec. 13. Election wards or precincts. There shall be eight election wards or precincts. The boundaries of the wards shall be as indicated on the map approved by the Robeson County Board of Elections on May 11, 1981 and by the City Council on May 12, 1981. The wards or precincts may be altered by the Robeson County Board of Elections with the approval of the City Council, provided, however, that in the event the corporate limits of the City of Lumberton are extended, the Board of Elections shall enlarge the nearest ward or precinct so as to include the annexed area therein."

Sec. 3. (a) Any and all official acts, actions, expenditures and levies of taxes or assessments by the City of Lumberton since April 26, 1967 are hereby ratified, validated and confirmed, provided, however, that this act does not validate any assessments of the cost of local improvements which were exempted from validation by Section 3 of Chapter 125, Session Laws of 1981.

(b) All elections and the results thereof previously held in and for the City of Lumberton are hereby validated.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of June, 1981.

S. B. 613

CHAPTER 650

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF HOPE MILLS AND TO REPEAL PRIOR LOCAL ACTS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Hope Mills is hereby revised and consolidated to read as follows:

"THE CHARTER OF THE TOWN OF HOPE MILLS.

"ARTICLE I.

"Incorporation, Corporate Powers and Boundaries.

"Sec. 1.1. Incorporation. The Town of Hope Mills, North Carolina, in the County of Cumberland, and the inhabitants thereof, shall continue to be a municipal body politic and corporate, under the name and style of the "Town of Hope Mills", hereinafter at times referred to as the "Town".

"Sec. 1.2. Powers. The Town of Hope Mills shall have and may exercise all of the powers, duties, rights, privileges and immunities, which are now, or hereafter may be, conferred, either expressly or by implication, upon the Town
of Hope Mills specifically, or upon municipal corporations generally, by this Charter, by the State Constitution, or by general or local law.

"Sec. 1.3. Corporate Limits. The corporate limits of the Town of Hope Mills shall be those existing at the time of ratification of this Charter, as the same are set forth on the official map of the Town, and as the same may be altered from time to time in accordance with law. An official map of the Town, showing the current Town boundaries, shall be maintained permanently in the office of the Town Clerk, and shall be available for public inspection. Immediately upon alteration of the corporate limits made pursuant to law, the appropriate changes to the official map of the Town shall be made.

"ARTICLE II.

"Mayor and Board of Commissioners.

"Sec. 2.1. Governing Body. The Town Board of Commissioners elected and constituted as herein set forth shall be the governing body of the Town. On behalf of the Town, and in conformity with applicable laws, the Town Board of Commissioners may provide for the exercise of all municipal powers, and shall be charged with the general government of the Town.

"Sec. 2.2. Town Board of Commissioners; Composition; Terms of Office. The Town Board of Commissioners shall be composed of five members, each of whom shall be elected for terms of two years in the manner provided by Article III of this Charter, provided they shall serve until their successors are elected and qualified.

"Sec. 2.3. Selection of the Mayor and other Officers; Meetings. The Mayor shall be elected for a term of two years in the manner provided by Article III of this Charter and until a successor is elected and qualified. The Mayor shall be the official head of the Town, preside at meetings of the Town Board of Commissioners, and shall exercise such powers and perform such duties as presently are or hereafter may be conferred upon the Mayor by the General Statutes of North Carolina, by this Charter, and by the ordinances of the Town.

"Sec. 2.4. Mayor Pro Tempore. In accordance with applicable State laws, the Town Board of Commissioners shall appoint one of its members to act as Mayor pro tempore to perform the duties of the Mayor in the Mayor’s absence or disability. The Mayor pro tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Board of Commissioners.

"Sec. 2.5. Meetings of the Board. In accordance with the General Statutes, the Town Board of Commissioners shall establish a suitable time and place for its regular meetings. Special meetings may be held according to the applicable provisions of the General Statutes.

"Sec. 2.6. Ordinances and Resolutions. The adoption, amendment, repeal, pleading, or proving of Town ordinances and resolutions shall be in accordance with the applicable provisions of the general laws of North Carolina not inconsistent with this Charter. The enacting clause of all Town ordinances shall be: ‘Be it ordained by the Town Board of Commissioners of the Town of Hope Mills’.

"Sec. 2.7. Voting Requirements; Quorum. Official action of the Town Board of Commissioners shall, unless otherwise provided by law, be by majority vote, provided that a quorum consisting of a majority of the actual membership of the Board is present. Vacant seats are to be subtracted from the normal Board membership to determine the actual membership.
"Sec. 2.8. Qualifications for Office; Vacancies; Compensation. The compensation of Board members, the filling of vacancies on the Board and the qualifications of Board members shall be in accordance with applicable provisions of the General Statutes.

"ARTICLE III.

"Elections.

"Sec. 3.1. Regular Municipal Elections; Conduct and Method of Election. Regular municipal elections shall be held in the Town every two years in odd-numbered years and shall be conducted in accordance with the uniform municipal election laws of North Carolina. The Mayor and members of the Town Board shall be elected according to the nonpartisan plurality method of elections.

"Sec. 3.2. Election of the Mayor and Town Board. At the regular municipal elections in 1981 and biennially thereafter, there shall be elected a Mayor and five members of the Town Board to fill the seats of those officers whose terms are then expiring.

"ARTICLE IV.

"Organization and Administration.

"Sec. 4.1. Form of Government. The Town shall operate under the council-manager form of government in accordance with Part 2 of Article 7, Chapter 160A of the General Statutes.

"Sec. 4.2. Appointment; Qualifications; Compensation. The Town Board shall appoint a town manager, who shall serve at the pleasure of the Board. The manager shall be chosen on the basis of executive and administrative qualifications, with special reference to actual experience in or knowledge of accepted practice with respect to the duties of a town manager. At the time of appointment, the manager need not be a resident of the Town or State, but during tenure of office shall reside within the Town. The manager shall receive such salary as the Board may establish.

"Sec. 4.3. Powers and Duties. The town manager shall be the administrative head of the Town government, and shall be responsible to the Town Board for the proper administration of all affairs of the Town. Except as otherwise provided by this Charter, the town manager shall have all the powers and duties assigned or delegated to a town manager by State law. The town manager shall also perform such other duties as are prescribed by the Board.

"Sec. 4.4. Appointment of Town Attorney; Qualifications; Compensation. (a) The Town Board shall appoint a town attorney to be its legal advisor, who shall serve at the pleasure of the Board. The town attorney shall be an attorney-at-law licensed to practice in this State. The town attorney shall receive such compensation as the Board may establish.

(b) The Town Board may also employ such other attorneys as it deems advisable in order to provide proper legal advice and assistance to the Town.

"Sec. 4.5. Duties. The Town attorney shall be the principal legal advisor to the Town, and shall perform whatever duties are prescribed by the Town Board.

"ARTICLE V.

"Assessments.

"Sec. 5.1. Petition Unnecessary. In addition to authority as now or may hereafter be granted to the Town for making street or sidewalk improvements, the Town Board of Commissioners is hereby authorized to order such
improvements and to assess the total cost thereof against abutting properties without the necessity of a petition of property owners.

"Sec. 5.2. Sidewalk Repairs. The Board is further authorized to order or to make sidewalk repairs and driveway repairs across sidewalks according to standards and specifications of the city, and to assess the total cost thereof against abutting properties without the necessity of a petition of property owners.

"Sec. 5.3. Sidewalk on One Side of Street. If a sidewalk is constructed on only one side of the street, the cost thereof may be assessed against the property abutting on both sides of the street, unless there already exists a sidewalk on the other side of the street, the total cost of which was assessed against the abutting property.

"Sec. 5.4. Assessment Procedure and Effect. In ordering street or sidewalk improvements or sidewalk repairs and assessing the cost thereof, the Board shall follow the procedures provided by the General Statutes for street and sidewalk improvements, except those provisions relating to the petition of property owners, the sufficiency thereof, and limitation of percentage of cost to be assessed. The effect of levying assessments pursuant to this act shall for all purposes be the same as if they were levied under authority of the General Statutes."

Sec. 2. The purpose of this act is to revise the Charter of the Town of Hope Mills and to consolidate herein certain acts concerning the property, affairs, and government of the Town. It is intended to continue without interruption those provisions of prior acts which are consolidated into this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 3. This act shall not be deemed to repeal, modify, or in any manner affect any of the following acts, portions of acts, or amendments thereto, whether or not such acts, portions of acts, or amendments are expressly set forth herein:

(a) Any acts concerning the property, affairs, or government of public schools in the Town of Hope Mills.

(b) Any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

(c) Any acts concerning the sale of alcoholic beverages or elections relating thereto.

Sec. 4. The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act, are hereby repealed:

Private Laws of 1891, Chapter 349
Private Laws of 1925, Chapter 205
Session Laws of 1953, Chapter 235
Session Laws of 1953, Chapter 1183
Session Laws of 1955, Chapter 36
Session Laws of 1957, Chapter 58
Session Laws of 1959, Chapter 253

Sec. 5. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):
(1) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act.

(2) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken pursuant to or within the scope of any provisions of law repealed by this act.

Sec. 6. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(1) The repeal herein of any act repealing such law, or

(2) Any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

Sec. 7. (a) All existing ordinances and resolutions of the Town of Hope Mills and all existing rules or regulations of departments or agencies of the Town of Hope Mills not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified or amended.

(b) No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or against the Town of Hope Mills or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 8. If any of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application and to this end the provisions of this act are declared to be severable.

Sec. 9. Whenever a reference is made in this act to a particular provision of the General Statutes, and such provision is later amended, repealed, or superseded, the reference shall be deemed amended to refer to the amended General Statute, or to the General Statute which most clearly corresponds to the statutory provision which is repealed or superseded.

Sec. 10. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of June, 1981.

S. B. 416  CHAPTER 651

AN ACT TO AMEND THE NORTH CAROLINA HEALTH PLANNING AND RESOURCE DEVELOPMENT ACT OF 1978.

The General Assembly of North Carolina enacts:

Section 1. Article 18 of Chapter 131 is amended by deleting "P.L. 93-641" wherever it appears and each time substituting "Title XV of the Public Health Service Act."

Sec. 2. G.S. 131-176 is amended as follows:

(a) in subdivision (1) by deleting the period following the second sentence and by substituting the following:

"., unless they elect to apply for licensure under Chapter 131B of the General Statutes."
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(b) by inserting between subdivisions (2) and (3) a new subdivision (2a) to read:

"(2a) 'Capital expenditure' means an expenditure which under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance."

(c) by deleting subdivision (5) and by substituting the following:

"(5) 'Change in bed capacity' means (i) an increase or decrease in the total number of beds, (ii) a redistribution of beds among different categories, or (iii) a relocation of beds from one physical facility or site to another; if the change exceeds ten beds or ten percent of bed capacity, whichever is less, in any two-year period."

(d) by deleting subdivision (6).

(e) by rewriting subdivision (9) to read as follows:

"(9) 'Final decision' means an approval, an approval with conditions, or denial of an application for a certificate of need."

(f) by rewriting subdivision (10) to read:

"(10) 'Health care facilities' means hospitals; skilled nursing facilities; kidney disease treatment centers, including freestanding hemodialysis units; intermediate care facilities, including intermediate care facilities for the mentally retarded or persons with related conditions; rehabilitation facilities; home health agencies; and ambulatory surgical facilities."

(g) in subdivision (11) by inserting after the words "public or private organization which" and before the colon the words "has received its certificate of authority under Chapter 57B of the General Statutes and which either is a qualified health maintenance organization under Section 1310(d) of the Public Health Service Act or":

(h) in subdivision (11) by striking out the words "in paragraph a of this subdivision to enrolled participants on a predetermined periodic rate basis" and substituting the words "above to enrolled participants by a payment which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health service actually provided";

(i) in subdivision (14) by deleting the word "not" from the second sentence;

(j) by deleting subdivision (15).

(k) by adding a new sentence at the end of subdivision (16) which reads:

"This term includes intermediate care facilities for the mentally retarded or persons with related conditions such as epilepsy, cerebral palsy, or autism."

(l) by inserting after subdivision (16) and before subdivision (17) a new subdivision (16a) to read:

"(16a) 'Major medical equipment' means a single unit or a single system of components with related functions which is used to provide medical and other health services and which costs more than one hundred fifty thousand dollars ($150,000). This does not include medical equipment acquired by or on behalf of a clinical laboratory to provide clinical laboratory services, if the clinical laboratory is independent of a physician's office and a hospital and has been determined under Title XVIII of the Social Security Act to meet the requirements of paragraphs (10) and (11) of Section 1861(s) of that act. In determining whether medical equipment costs more than one hundred fifty thousand dollars ($150,000), the costs of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to acquiring the
equipment shall be included. If the equipment is acquired for less than fair market value, the cost shall be deemed to be the fair market value."

(m) by rewriting subdivision (17) to read as follows:

"(17)'New institutional health services' means:

a. the construction, development, or other establishment of a new health care facility;

b. the obligation by or on behalf of a health care facility or a local health department established under Article 3 of Chapter 130 of the General Statutes of any capital expenditure, other than one to acquire an existing health care facility, which exceeds the expenditure minimum. Further, increases in approved capital expenditures, if they exceed the expenditure minimum, are also new institutional health services. The expenditure minimum is one hundred fifty thousand dollars ($150,000) for the 12-month period beginning October 1, 1979. For each 12-month period thereafter the expenditure minimum shall be the figure in effect for the preceding 12-month period, adjusted to reflect the change in the preceding 12-month period in the Department of Commerce Composite Construction Cost Index. The cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities, including staff effort and consulting and other services, essential to the acquisition, improvement, expansion, or replacement of any plant or equipment with respect to which an expenditure is made shall be included in determining if the expenditure exceeds the expenditure minimum:

c. the obligation of any capital expenditure by or on behalf of any health care facility which is associated with a change in bed capacity;

d. the obligation of any capital expenditure by or on behalf of a health care facility which is associated with the addition of a health service which was not offered by or on behalf of the facility within the previous 12 months or with the termination of a health service which was offered in or through the facility;

e. a change in a project which was subject to review under paragraphs a, b, c, or d of this subdivision and for which a certificate of need had been issued, if the change is proposed within one year after the project was completed. For the purposes of this paragraph, a change in a project is a change in bed capacity, the addition of a health service, or the termination of a health service, regardless of whether a capital expenditure is associated with the change;

f. the offering of a health service by or on behalf of a health care facility if the service was not offered by or on behalf of the health care facility in the previous 12 months and if the annual operating costs of the service equal or exceed the expenditure minimum. The expenditure minimum for annual operating costs is seventy-five thousand dollars ($75,000) for the 12-month period beginning October 1, 1979. For each 12-month period thereafter the expenditure minimum shall be the figure in effect for the preceding 12-month period, adjusted to reflect the change in the preceding 12-month period in the Department of Commerce Composite Construction Cost Index;

g. the acquisition by any person of major medical equipment that will be owned by or located in a health care facility;
h. the acquisition by any person of major medical equipment not owned by
or located in a health care facility if notice of the acquisition is not filed
with the department in accordance with rules promulgated by the
department, or the department, within 30 days after receipt of the
notice, finds that the equipment will be used to provide services to
inpatients of a hospital, excluding use on a temporary basis in the case of
a natural disaster, a major accident, or equipment failure;

i. the use, excluding use on a temporary basis in the case of a natural
disaster, a major accident, or equipment failure, of major medical
equipment which was acquired without a certificate of need, to treat
inpatients of a hospital;

j. the obligation of a capital expenditure by any person to acquire an
existing health care facility, if a notice of intent is not filed with the
department in accordance with rules promulgated by the department, or
the department, within 30 days after receipt of the notice of intent,
finds that there will be a change in bed capacity, the addition of a
health service not offered by or on behalf of the facility within the
previous 12 months, or the termination of a health service which was
offered by or on behalf of the facility;

k. a change in bed capacity, the addition of a health service which was not
offered by or on behalf of the facility within the previous 12 months, or
the termination of a health service which was offered by or on behalf of
the facility, in a health care facility which was acquired without a
certificate of need, if such change occurs within one year of the
acquisition;

l. notwithstanding the provisions of G.S. 131-176(15)h and j, the purchase,
lease or acquisition of any of the following: any health care facility, or
portion thereof; major medical equipment; a controlling interest in the
health care facility, or portion thereof; or a controlling interest in major
medical equipment. The aforesaid are new institutional health services
if the asset was obtained under a certificate of need issued pursuant to
G.S. 131-178.2.”

(n) by inserting after subdivision (22) and before subdivision (23) a new
subdivision (22a) to read as follows:

“(22a) ‘Rehabilitation facility’ means a public or private inpatient facility
which is operated for the primary purpose of assisting in the rehabilitation of
disabled persons through an integrated program of medical and other services
which are provided under competent, professional supervision.”

(o) by deleting subdivision (28).

Sec. 3. G.S. 131-178 is rewritten to read as follows:

“§ 131-178. Activities requiring certificates of need.—(a) No person shall offer
or develop a new institutional health service without first obtaining a
certificate of need from the department.

(b) No person shall make an acquisition by donation, lease, transfer, or
comparable arrangement without first obtaining a certificate of need from the
department, if the acquisition would have been a new institutional health
service if it had been made by purchase. In determining whether an acquisition
would have been a new institutional health service the fair market value of the
asset shall be deemed to be the purchase price.

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(c) No person shall incur an obligation for a capital expenditure which is a new institutional health service without first obtaining a certificate of need from the department. An obligation for a capital expenditure is incurred by or on behalf of a health care facility when:

(1) an enforceable contract, excepting contracts which are expressly contingent upon issuance of a certificate of need, is entered into by or on behalf of the health care facility for the construction, acquisition, lease or financing of a capital asset;

(2) the governing body of a health care facility takes formal action to commit its own funds for a construction project undertaken by the health care facility as its own contractor; or

(3) in the case of donated property, the date on which the gift is completed.

(d) Where the estimated cost of a proposed capital expenditure is certified by a licensed architect or engineer to be equal to or less than the expenditure minimum for capital expenditure, such expenditure shall be deemed not to exceed the expenditure minimum for capital expenditures regardless of the actual amount expended, provided that the following conditions are met:

(1) The certified estimated cost is prepared in writing 60 days or more before the obligation for the capital expenditure is incurred. Certified cost estimates shall be available for inspection at the facility and sent to the department upon its request.

(2) The facility on whose behalf the expenditure was made notifies the department in writing within 30 days of the date on which such expenditure is made if the expenditure exceeds the expenditure minimum for capital expenditures. The notice shall include a copy of the certified cost estimate.

(e) The department may grant certificates of need which permit capital expenditures only for predevelopment activities. Predevelopment activities include the preparation of architectural designs, plans, working drawings, or specifications, the preparation of studies and surveys, and the acquisition of a potential site."

Sec. 4. Article 18 of Chapter 131 of the General Statutes, is amended by adding the following new sections:

"§ 131-178.1. Research activities.—(a) Notwithstanding any other provisions of this Article, a health care facility may acquire major medical equipment to be used solely for research, offer institutional health services to be used solely for research, or incur the obligation of a capital expenditure solely for research, without a certificate of need, if the department grants an exemption. The department shall grant an exemption if the health care facility files a notice of intent with the department in accordance with rules promulgated by the department and if the department finds that the acquisition, offering or obligation will not:

(1) affect the charges of the health care facility for the provision of medical or other patient care services other than services which are included in the research;

(2) substantially change the bed capacity of the facility; or

(3) substantially change the medical or other patient care services of the facility.

(b) After a health care facility has received an exemption pursuant to subsection (a) of this section, it shall not use the major medical equipment, offer
the institutional health services, or use the equipment or facility acquired through the capital expenditure, in a manner which affects the charges of the facility for the provision of medical or other patient care services, other than the services which are included in the research, without first obtaining a certificate of need from the department.

(c) Any of the activities described in subsection (a) of this section shall be deemed to be solely for research even if they include patient care provided on an occasional and irregular basis and not as a part of the research program.

"§ 131-178.2. Health Maintenance Organization.—(a) Subject to the provisions of subsection (b) of this section, no inpatient health care facility controlled, directly or indirectly by a Health Maintenance Organization, hereinafter referred to as HMOs, or combination of HMOs shall offer or develop new institutional health services without first obtaining a certificate of need from the department. Further, subject to the provisions of subsection (b) of this section, no health care facility of an HMO shall offer or develop any of the new institutional health services specified in G.S. 131-176(15) g., h., and i. without first obtaining a certificate of need from the department. This section shall not be construed as requiring that a certificate of need be obtained before an HMO is established.

(b) The requirements of subsection (a) of this section shall not apply to any person who receives an exemption under this subsection. In order to receive an exemption an application must be submitted to the department and the appropriate health systems agency or agencies. The application shall be on forms prescribed by the department and contain the information required by the department. The application shall be submitted at a time and in a manner prescribed by the rules and regulations of the department. The department shall grant an exemption if it finds that the applicant is qualified or will be qualified on the date the activity is undertaken. Any of the following are qualified applicants:

(1) An HMO or combination of HMOs if (i) the HMO or combination of HMOs has an enrollment of at least 50,000 individuals in its service area, (ii) the facility in which the service will be provided is or will be geographically located so that the service will be reasonably accessible to the enrolled individuals, and (iii) at least seventy-five percent (75%) of the patients who can be reasonably expected to receive the health service will be individuals enrolled in the HMO or HMOs in combination; or

(2) A health care facility, or portion thereof, if (i) the facility primarily provides or will provide inpatient health services, (ii) the facility is or will be controlled, directly or indirectly, by an HMO or combination of HMOs with an enrollment of at least 50,000 individuals in its service area, (iii) the facility is or will be geographically located so that the service will be reasonably accessible to the enrolled individuals, and (iv) at least seventy-five percent (75%) of the patients who can be reasonably expected to receive the health service will be individuals enrolled with the HMO or HMOs in combinations; or

(3) A health care facility, or portion thereof, if (i) the facility is or will be leased by an HMO or combination of HMOs with an enrollment of at least 50,000 individuals in its service area and on the date the application for exemption is submitted at least 15 years remain on the...
lease, (ii) the facility is or will be geographically located so that the service will be reasonably accessible to the enrolled individuals, and (iii) at least seventy-five percent (75%) of the patients who can be reasonably expected to receive the health service will be individuals enrolled with the HMO or HMOs in combination.

(c) If a fee-for-service component of an HMO or combination of HMOs qualifies for an exemption under subsection (b) of this section then it must be granted an exemption.

(d) In reviewing certificate of need applications submitted pursuant to this section, the department shall not deny the application solely because the proposal is not addressed in the applicable health systems plan, annual implementation plan or State health plan.

(e) Notwithstanding the review criteria of G.S. 131-181(a), if an HMO or a health care facility which is controlled, directly or indirectly, by an HMO applies for a certificate of need, the department shall grant the certificate if it finds, in accordance with G.S. 131-181(a)(10), that (1) granting the certificate is required to meet the needs of the members of the HMO and of the new members which the HMO can reasonably be expected to enroll, and (2) the HMO is unable to provide, through services or facilities which can reasonably be expected to be available to the HMO, its health services in a reasonable and cost-effective manner which is consistent with the basic method of operations of the HMO and which makes these services available on a long-term basis through physicians and other health professionals associated with it.

Sec. 5. G.S. 131-179, is rewritten to read:

“§ 131-179. Nature of certificates of need.—A certificate of need shall be valid only for the defined scope, physical location, and person named in the application. A certificate of need shall not be transferred or assigned.”

Sec. 6. G.S. 131-180, is rewritten to read:

“§ 131-180. Application.—(a) The department in its rules and regulations shall establish schedules for submission and review of completed applications. The schedules, which shall be consistent with federal law and regulations, shall provide that applications for similar proposals in the same health service area will be reviewed together.

(b) An application for a certificate of need shall be made on forms provided by the department. The application forms, which may vary according to the type of proposal, shall require such information as the department, by its rules and regulations, deem necessary to conduct the review. An applicant shall be required to furnish only that information necessary to determine whether the proposed new institutional health service is consistent with the review criteria implemented under G.S. 131-181 and with duly adopted standards, plans, and criteria.”

Sec. 7. G.S. 131-181(a), is amended as follows:

(a) in subdivision (2) by inserting after the words “long-range development plan” the phrase “; if any;”.

(b) in subdivision (3) by deleting the period at the end of the sentence and substituting the following:

“; and the extent to which all residents of the area, and in particular low income persons, racial and ethnic minorities, women, handicapped persons and other underserved groups, and the elderly, are likely to have access to those services.”
(c) by adding a subdivision (3a) to read as follows:

"(3a) In the case of a reduction or elimination of a service, including the relocation of a facility or a service, the need that the population presently served has for the service, the extent to which that need will be met, adequately by the proposed relocation or by alternative arrangements, and the effect of the reduction, elimination or relocation of the service on the ability of low income persons, racial and ethnic minorities, women, handicapped persons, and other underserved groups and the elderly to obtain needed health care."

(d) in subdivision (4) by deleting the phrase "such services." and substituting the phrase "the services to be offered, expanded, reduced, relocated or eliminated."

(e) in subdivision (5) by inserting after the words "providing health services" and before the period the words "by the person proposing the service".

(f) in subdivision (7) by deleting the words "the availability of alternative uses of such resources for the provision of other health services" and by substituting in lieu thereof the words "the need for alternative uses of these resources as identified by the applicable health systems plan, annual implementation plan or State health plan".

(g) by rewriting subdivision (10) to read:

"(10) The special needs and circumstances of HMOs. These needs and circumstances shall be limited to:

a. The needs of enrolled members and reasonably anticipated new members of the HMO for the health service to be provided by the organization; and

b. The availability of new health services from non-HMO providers or other HMOs in a reasonable and cost-effective manner which is consistent with the basic method of operation of the HMO. In assessing the availability of these health services from these providers, the department shall consider only whether the services from these providers:

(i) would be available under a contract of at least 5 years' duration;

(ii) would be available and conveniently accessible through physicians and other health professionals associated with the HMO;

(iii) would cost no more than if the services were provided by the HMO; and

(iv) would be available in a manner which is administratively feasible to the HMO."

(h) in subdivision (12) by inserting after the words "the person proposing the construction project" and before the period the words "and on the costs and charges to the public of providing health services by other persons".

(i) by rewriting subdivision (13) to read:

"(13) The contribution of the proposed service in meeting the health related needs of members of medically underserved groups, such as low income persons, racial and ethnic minorities, women, and handicapped persons, which have traditionally experienced difficulties in obtaining equal access to health services, particularly those needs identified in the applicable health systems plan, annual implementation plan, and State health plan as deserving of priority. For the purpose of determining the extent to which the proposed service will be accessible, the department shall consider:
a. The extent to which medically underserved populations currently use the applicant’s proposed services in comparison to the percentage of the population in the applicant’s service area which is medically underserved, and the extent to which medically underserved populations are expected to use the proposed services if approved;

b. The performance of the applicant in meeting its obligation, if any, under any applicable regulations requiring provision of uncompensated care, community service, or access by minorities and handicapped persons to programs receiving federal assistance, including the existence of any civil rights access complaints against the applicant;

c. The extent to which Medicare, Medicaid and medically indigent patients are served by the applicant; and

d. The extent to which the applicant offers a range of means by which a person will have access to its services. Examples of a range of means are outpatient services, admission by house staff, and admission by personal physicians."

(j) by adding the new subdivisions to read:

“(14) The effect of the means proposed for delivery of the health services on the clinical needs of health professional training programs in the area in which the services are to be provided.

(15) If the proposed health services are to be available in a limited number of facilities, the extent to which the health professions schools in the area will have access to the services for training purposes.

(16) The special circumstances of health care facilities with respect to the need for conserving energy.

(17) In accordance with Section 1502(b) of the Public Health Service Act, 42 U.S.C. 300k-2(b), the factors which influence the effect of competition on the supply of the health services being reviewed.

(18) Improvements or innovations in the financing and delivery of health services which foster competition, in accordance with Section 1502(b) of the Public Health Service Act, 42 U.S.C. 300k-2(b), and serve to promote quality assurance and cost effectiveness.

(19) In the case of proposed health services or facilities, the efficiency and appropriateness of the use of existing, similar services and facilities.

(20) In the case of existing services or facilities, the quality of care provided in the past.

(21) When an application is made by an osteopathic or allopathic facility for a certificate of need to construct, expand, or modernize a health care facility, acquire major medical equipment, or add services, the need for that construction, expansion, modernization, acquisition of equipment, or addition of services shall be considered on the bases of the need for and availability in the community of services and facilities for osteopathic and allopathic physicians and their patients. The department shall consider the application in terms of its impact on existing and proposed institutional training programs for doctors of osteopathy and medicine at the student, internship, and residency training levels.”
Sec. 8. Article 18 of Chapter 131 of the General Statutes, is amended by inserting after G.S. 131-181 the following:

“§ 131-181.1. Required approvals.—(a) Except as provided in subsection (b), the department shall issue a certificate of need for a proposed capital expenditure if:

1. The capital expenditure is required (i) to eliminate or prevent imminent safety hazards as defined in federal, State, or local fire, building, or life safety codes or regulations, or (ii) to comply with State licensure standards, or (iii) to comply with accreditation or certification standards which must be met to receive reimbursement under Title XVIII of the Social Security Act or payments under a State plan for medical assistance approved under Title XIX of that act; and

2. The department determines that (i) the facility or services for which the capital expenditure is proposed is needed, and (ii) the obligation of the capital expenditure is consistent with the State Health Plan. Even though the proposal is inconsistent with the State Health Plan, the department may issue a certificate of need if emergency circumstances pose an imminent threat to public health.

(b) Those portions of a proposed project which are not to eliminate or prevent safety hazards or to comply with certain licensure, certification, or accreditation standards are subject to review under the criteria developed under G.S. 131-181.”

Sec. 9. G.S. 131-182(a), is amended by deleting the first sentence following “(1)” and substituting the following:

“The appropriate health systems agency or agencies shall have 60 days to review each application as to consistency with duly adopted plans, standards, and criteria. Following the review the health systems agency shall submit to the department its comments and recommendations.”

Sec. 10. G.S. 131-182(b), is amended by deleting the second sentence.

Sec. 11. G.S. 131-185, is rewritten to read:

“§ 131-185. Administrative and judicial review.—(a) After a decision of the department to issue, deny or withdraw a certificate of need or exemption, any affected person shall be entitled to a contested case hearing under Article 3 of Chapter 150A of the General Statutes, if the department receives a request therefor within 30 days after its decision.

(b) Any affected person who was a party in a contested case hearing shall be entitled to judicial review pursuant to Article 4 of Chapter 150A of the General Statutes of the final agency decision.

(c) The term ‘affected persons’ includes the applicant; the health systems agency for the health service area in which the proposed project is to be located; health systems agencies serving contiguous health service areas or located within the same standard metropolitan statistical area; any person residing within the geographic area served or to be served by the applicant; any person who regularly uses health care facilities within that geographic area; health care facilities and health maintenance organizations (HMOs) located in the health service area in which the project is proposed to be located, which provide services similar to the services of the facility under review; health care facilities and HMOs which, prior to receipt by the agency of the proposed being reviewed, have formally indicated an intention to provide similar services in the future; third party payers who reimburse health care facilities for services in the
health service area in which the project is proposed to be located; and any agency which establishes rates for health care facilities or HMOs located in the health service area in which the project is proposed to be located."

Sec. 12. G.S. 131-186, is rewritten to read:

"§ 131-186. Withdrawal of a certificate of need.—(a) The department shall specify in each certificate of need the time the holder has to make the service or equipment available or to complete the project and the timetable to be followed. The timetable shall be the one proposed by the holder of the certificate of need unless at the time the certificate of need is issued the Department determines by a preponderance of the evidence that the timetable proposed by the holder is unreasonable and that a different timetable should be followed by the holder. The holder of the certificate shall submit such periodic reports on his progress in meeting the timetable as may be required by the department. If, after reviewing the progress, the department determines that the holder of the certificate is not meeting the timetable and not making a good faith effort to meet it, the department may, after considering any recommendation made by the appropriate health systems agency, withdraw the certificate.

(b) The department may withdraw any certificate of need which was issued subject to a condition or conditions, if the holder of the certificate fails to satisfy such condition or conditions.

(c) The department may withdraw any certificate of need if the holder of the certificate, before completion of the project or operation of the facility, transfers ownership or control of the facility. Transfers resulting from personal illness or other good cause, as determined by the department, shall not result in withdrawal if the department receives prior written notice of the transfer and finds good cause. Transfers resulting from death shall not result in withdrawal."

Sec. 13. G.S. 131-187 is amended by deleting subsection (b).

Sec. 14. This act shall become effective October 1, 1981, but shall not apply to the reviews of any certificate of need applications completed before October 1, 1981.

In the General Assembly read three times and ratified, this the 22nd day of June, 1981.

S. B. 541 CHAPTER 652

AN ACT MAKING FLIGHT AFTER COMMITTING MURDER AN AGGRAVATING FACTOR FOR THE PURPOSE OF IMPOSING CAPITAL PUNISHMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-2000(e)(5) as the same appears in the 1979 Cumulative Supplement to the 1978 Replacement Volume 1C of the General Statutes is hereby amended in the third line by inserting after the word "any" and before the word "robbery," the word "homicide.".

Sec. 2. This act is effective upon ratification and applies to capital felonies committed on or after that date.

In the General Assembly read three times and ratified, this the 22nd day of June, 1981.

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S. B. 559  CHAPTER 653
AN ACT TO ENCOURAGE GIFTS OF HISTORIC PROPERTIES TO CERTAIN CHARITABLE ENTITIES BY PERMITTING INCOME TAX DEDUCTIONS THEREFOR.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-147 is amended by adding thereto a new subsection (15.1), immediately following subsection (15), to read as follows:

"(15.1) Contributions or gifts of property included in, or eligible for inclusion in, the National Register of Historical Places, when made by individuals, firms and partnerships within the income year to nonprofit corporations, trusts, foundations or associations organized and operated exclusively for charitable or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and one of whose purposes includes the preservation or conservation of real or personal property of architectural, archeological, historic, artistic, cultural, natural or scenic significance. In the case of such contributions or gifts by a partnership, such amounts shall not be deductible in determining the net income of the partnership but shall be allocated to each partner on the basis of the ratio used for determining each partner's share of the distributive gain or loss of the partnership, and shall be claimed to the extent allowable on each partner's individual return.

Any taxpayer who makes a contribution deductible under the provisions of this subsection may elect to claim one-fifth of the deduction with respect to the year in which the contribution was made, and the remaining four-fifths may be claimed in equal amounts with respect to the four taxable years next succeeding the year in which the contribution was made. If a timely election is made on the basis prescribed above, the election shall be binding on the taxpayer and he may not after the date prescribed for filing his return change to another method of claiming the deduction; and, in like manner, if a timely election is made to claim the deduction wholly in the year in which the contribution was made, that election shall likewise be binding on the taxpayer.

A taxpayer shall not be entitled to a deduction under the provisions of this section for a contributions deduction claimed under the provisions of G.S. 105-147(15) or (16)."

Sec. 2. This act shall be effective with respect to taxable years beginning on and after January 1, 1981.

In the General Assembly read three times and ratified, this the 22nd day of June, 1981.

S. B. 611  CHAPTER 654
AN ACT TO EXEMPT CERTAIN GOVERNMENTAL EMPLOYEES FROM CERTAIN OF THE LICENSE REQUIREMENTS PREVIOUSLY ESTABLISHED FOR PRACTICING PSYCHOLOGISTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-270.4(a) is amended in the second paragraph by deleting the first and second sentences and substituting:

"Nothing in this Article shall be construed as limiting the activities, services, and use of official titles on part of any person in the regular employ of the State of North Carolina or whose employment is included under the State Personnel
Act who has served in a position of employment involving the practice of psychology as defined in this Article, provided that the person has served in this capacity prior to July 1, 1979."

Sec. 2. G.S. 90-270.4 is amended by adding a new subsection to read:

"(a1) Nothing in this Article shall be construed as limiting State or local governmental programs from hiring nonlicensed applicants qualified for psychology positions, provided that the person hired makes application for a license in North Carolina within six months of being employed by the governmental program. After making application for a license, employees hired under this provision must take the first examination for a license to which they are admitted by the Board, and if the employee fails the examination, the employee must pass the examination the next time it is given to remain employed in a psychology position."

Sec. 3. This act shall become effective July 1, 1981.
In the General Assembly read three times and ratified, this the 22nd day of June, 1981.

S. B. 615  CHAPTER 655
AN ACT TO ALLOW SANITARY DISTRICTS TO CONTRACT WITH INCORPORATED NONPROFIT VOLUNTEER OR COMMUNITY FIRE DEPARTMENTS FOR FIRE PROTECTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-128(13) is amended by adding immediately before the words "or to contract with cities", the words "to contract with any incorporated nonprofit volunteer or community fire department to furnish firefighting apparatus and personnel for use in the district."

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 22nd day of June, 1981.

S. B. 612  CHAPTER 656
AN ACT TO REQUIRE COUNTIES THAT PROVIDE VOTERS' LISTS FROM COMPUTERS TO MAKE DISCS OR TAPES AVAILABLE TO STATE POLITICAL PARTIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-66, as it appears in the 1980 Interim Supplement, is rewritten to read:

"§163-66. Custody of registration records and pollbooks; access; obtaining copies.—In all counties the registration records, books, registration certificates, indexes, computer lists, discs, labels and tapes and other records of registration and voting shall be and remain in the possession of the county board of elections. The county board of elections shall keep all such records in a safe and secure place where they may not be tampered with, stolen or destroyed. If possible, the board shall keep them in a fireproof vault or file. The board may exercise supervision and control of these records through its properly designated officers and employees. It shall be the duty of the county board of elections, on application of any candidate, or the county chairman of any political party, or any other person, to furnish a list of the persons registered to
vote in the county or in any precinct or precincts therein. No registrar shall furnish lists of registered voters or permit the registration records of his precinct to be copied. The county board of elections shall furnish such lists and upon request, it may furnish selective lists according to party affiliation, sex, race, date of registration, or any other reasonable category. In all instances, however, the county board of elections shall require persons to whom any list is furnished to make full reimbursement for the expense incurred in preparing it. Notwithstanding the above, however, the chairman of each political party in the county, as defined in G.S. 163-96, shall be entitled biennially, upon written request, to one free list of all registered voters in his county showing the name, address, sex, political affiliation and precinct of each registered voter, provided, that in counties having voter records maintained on electronic data processing equipment, such lists shall not be furnished biennially but instead on the following schedule: once in each odd-numbered year, once during the first six calendar months of each even-numbered year, and once during the last six months of each even-numbered year. In addition to the typed, mimeographed, xeroxed or computer print-out lists required hereinabove, each county that provides voters' lists from computers shall, upon written request from the State Chairman of each political party, provide at least 120 days prior to each general election a computer disc or tape containing the name, address, sex, race, age, political affiliation and precinct of each registered voter and it shall be the responsibility of each State Chairman receiving such discs or tapes to provide them to candidates for election who are candidates of their respective political parties and who request the discs or tapes in writing. The free list to be furnished to the county chairman of each political party shall group the registered voters by precinct and shall be furnished as soon as practicable but no later than 30 days after said request.”

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of June, 1981.

S. B. 565

CHAPTER 657

AN ACT TO AMEND THE LAW PERTAINING TO ADOPTION OF ADULTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 48-36(a), as the same appears in Volume 2A of the General Statutes, is hereby amended by deleting from the second sentence thereof the words “and the person to be adopted”, and, further, by deleting from the third sentence thereof the words “must be filed in the county where the person to be adopted resides” and substituting in lieu thereof the words “shall be filed with the clerk of superior court of the county in which the petitioners reside”.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of June, 1981.

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S. B. 587  

CHAPTER 658

AN ACT TO CONTINUE THE NORTH CAROLINA ENVIRONMENTAL POLICY ACT OF 1971.

The General Assembly of North Carolina enacts:

Section 1. Section 12 of Chapter 1203, Session Laws of 1971, as amended by Chapter 119, Session Laws of 1973 and Chapter 532, Session Laws of 1977 is amended by deleting the number "1981" both times it appears and inserting in lieu thereof in both places the number "1991".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of June, 1981.

H. B. 294  

CHAPTER 659

AN ACT TO AMEND CHAPTER 90, ARTICLE 12A, OF THE GENERAL STATUTES RELATING TO PODIATRISTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-202.4 is amended by rewriting lines 1 through 12 to read as follows:

§ 90-202.4. Board of Podiatry Examiners; terms of office; powers; duties.—(a) There shall be established a Board of Podiatry Examiners for the State of North Carolina. This Board shall consist of four members appointed by the Governor. Three of the members shall be licensed podiatrists who have practiced podiatry in North Carolina for not less than five years immediately preceding their election and who are elected and nominated to the Governor as hereinafter provided. The other member shall be a person chosen by the Governor to represent the public at large. The public member shall not be a health care provider nor may he or she be the spouse of a health care provider. For purposes of Board membership, "health care provider" means any licensed health care professional and any agent or employee of any health care institution, health care insurer, health care professional school, or a member of any allied health profession. For purposes of this section, a person enrolled in a program to prepare him to be a licensed health care professional or an allied health professional shall be deemed a health care provider. For purposes of this section, any person with significant financial interest in a health service or profession is not a public member.

(b) All Board members serving on June 30, 1981, shall be eligible to complete their respective terms. No member appointed to the Board on or after July 1, 1981, shall serve more than two complete consecutive three-year terms, except that each member shall serve until his successor is chosen and qualified.

(c) Podiatrist members chosen as provided for in subsection (d) shall be selected upon the expiration of the respective terms of the members of the present Board of Podiatry Examiners. Membership on the Board resulting from appointment before July 1, 1981, shall not be considered in determining the permissible length of service under subsection (b). The Governor shall appoint the public member not later than July 1, 1981.

(d) The Governor shall appoint podiatrist members of the Board from a list provided by the Board of Podiatry Examiners. For each vacancy, the Board shall submit at least three names to the Governor. All nominations of podiatrist
members of the Board shall be conducted by the Board of Podiatry Examiners, which is hereby constituted a Board of Podiatry Elections. Every podiatrist with a current North Carolina license residing in this State shall be eligible to vote in all elections. The list of licensed podiatrists shall constitute the registration list for elections. The Board of Podiatry Elections is authorized to make rules relative to the conduct of these elections, provided such rules are not in conflict with the provisions of this section and provided that notice shall be given to all licensed podiatrists residing in North Carolina. All such rules shall be adopted subject to the procedures of Chapter 150A of the General Statutes of North Carolina. From any decision of the Board of Podiatry Elections relative to the conduct of such elections, appeal may be taken to the courts in the manner provided by Chapter 150A of the General Statutes.

(e) Any initial or regular member of the Board may be removed from office by the Governor for good cause shown. Any vacancy in the initial or regular podiatrist membership of the Board shall be filled for the period of the unexpired term by the Governor from a list of at least three names submitted by the podiatrist members of the Board. Any vacancy in the public membership of the Board shall be filled by the Governor for the unexpired term.

(f) The Board is authorized to elect its own presiding and other officers.

(g) The Board, in carrying out its responsibilities, shall”.

Sec. 2. G.S. 90-202.5 is amended on line 4 by deleting the phrase “is more than 18 years of age.”.

Sec. 3. G.S. 90-202.6 is amended on line 1 by designating all of the current language in the section as subsection (a).

Sec. 4. G.S. 90-202.6 is further amended by adding the following new subsections at the end thereof to read as follows:

“(b) The Board may waive the administration of a written examination prepared by it for all initial applicants who have successfully completed the National Board of Podiatry Examination. The Board may administer to such applicants and require them to complete successfully an examination to test clinical competency in the practice of podiatry.

(c) Any applicant who fails to pass his examination shall within one year be entitled to reexamination upon the payment of an amount not to exceed one hundred dollars ($100.00), but not more than two reexaminations shall be allowed any one applicant prior to filing a new application. Should he fail to pass his third examination, he shall file a new application before he can again be examined.”

Sec. 5. G.S. 90-202.7 is rewritten to read as follows:

“§ 90-202.7. Applicants licensed in other states.—If an applicant for licensure is already licensed in another state to practice podiatry, the Board shall issue a license to practice podiatry to the applicant upon evidence that:

(1) the applicant is currently an active, competent practitioner in good standing; and

(2) the applicant has practiced at least three years out of the five years immediately preceding his or her application; and

(3) the applicant currently holds a valid license in another state; and

(4) no disciplinary proceeding or unresolved complaint is pending anywhere at the time a license is to be issued by this State; and

(5) the licensure requirements in the other state are equivalent to or higher than those required by this State.  

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Any license issued upon the application of any podiatrist from any other state shall be subject to all of the provisions of this Article with reference to the license issued by the North Carolina State Board of Podiatry Examiners upon examination of applicants, and the rights and privileges to practice the profession of podiatry under any license so issued shall be subject to the same duties, obligations, restrictions and conditions as imposed by this Article on podiatrists originally examined by the North Carolina State Board of Podiatry Examiners.

Sec. 6. G.S. 90-202.8 is amended by rewriting subsection (a)(8) to read as follows:

“(8) Has advertised services in a false, deceptive, or misleading manner;”.

Sec. 7. G.S. 90-202.8(a)(17) and (18) are hereby repealed and the remaining subdivisions are renumbered accordingly.

Sec. 8. G.S. 90-202.8 is further amended by renumbering subsections (b) and (c) as subsections (c) and (d) respectively and by inserting a new subsection (b) to read as follows:

“(b) The Board shall establish a grievance committee to receive complaints concerning a practitioner's business or professional practices. The committee shall consider all complaints and determine whether there is probable cause. After its review, the committee may dismiss any complaint when it appears that probable cause of a violation cannot be established. Complaints which are not dismissed shall be referred to the Board.”

Sec. 9. G.S. 90-202.13 is amended by adding a new sentence to the end thereof to read as follows:

“Actions under this section shall be commenced in the judicial district in which the respondent resides or has his principal place of business or in which the alleged acts occurred.”

Sec. 10. Article 13A, Chapter 131, is amended by adding two new sections to read as follows:

“§ 131-126.10. Hospital privileges.—The granting or denial of privileges to practice in hospitals to licensed physicians and other practitioners licensed by the State of North Carolina to practice surgery on human beings, and the scope and conditions of such privileges, shall be determined by the governing body of the hospital based upon the applicant’s education, training, experience, demonstrated competence and ability, judgement, character and the reasonable objectives and regulations of the hospital in which such privileges are sought. Nothing in this Article shall be deemed to mandate hospitals to grant or deny to any parties privileges to practice in said hospitals.

§ 131-126.11. Procedures for applying for hospital privileges.—The procedures to be followed by a licensed hospital in considering applications of practitioners licensed by the State of North Carolina to practice surgery on human beings, for privileges to practice in such hospitals shall be similar to those which are applicable to applications of physicians licensed to practice medicine. All practitioners must comply with all applicable medical staff bylaws, rules and regulations, including the procedures governing qualification methods of selection and the delineation of privileges. It shall be unlawful for a practitioner with a license that is restricted in scope by such license to admit a patient to a hospital without written proof satisfactory to the governing body of the hospital that a physician licensed to practice medicine in North Carolina who is a member of the medical staff will be responsible for the medical needs of
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the patient. Such procedures shall be considered public records. Nothing herein shall be deemed to affect the privileges of dentists to practice in hospitals."

Sec. 11. G.S. 143-34.12 is amended by deleting line 10 which reads as follows:
“Chapter 90, Article 12A, entitled ‘Podiatrists’.”

Sec. 12. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1981.

H. B. 831  CHAPTER 660

AN ACT TO PROVIDE FOR EXEMPTIONS FROM CIVIL LIABILITY FOR CERTAIN PERSONS RENDERING ASSISTANCE AT ACCIDENTS INVOLVING LIQUEFIED PETROLEUM GAS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 119 is amended by adding a new section to read:
“§ 119-54. Liquefied petroleum gas accidents; liability limitations.—Any person who provides assistance upon request of any police agency, fire department, rescue or emergency squad, or any governmental agency in the event of an accident or other emergency involving the use, handling, transportation, transmission or storage of liquefied petroleum gas, when the reasonably apparent circumstances require prompt decisions and actions, shall not be liable for any civil damages resulting from any act of commission or omission on his part in the course of his rendering such assistance unless such acts or omissions amount to willful or wanton negligence or intentional wrongdoing. Nothing in this section shall be deemed or construed to relieve any person from liability for civil damages (a) where the accident or emergency referred to above involved his own facilities or equipment or (b) resulting from any act of commission or omission on his part in the course of providing care or assistance in the normal and ordinary course of conducting his own business or profession, nor shall this section be construed to relieve from liability for civil damages any other tortfeasor not referred to herein. When the assistance takes the form of rendering first aid or emergency health care treatment, questions of liability shall be governed by G.S. 90-21.14.”

Sec. 2. This act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 23rd day of June, 1981.

H. B. 1012  CHAPTER 661

AN ACT TO REVISE LICENSURE FEES FOR NURSES.

The General Assembly of North Carolina enacts:

Section 1. Section 90-160.6 of the North Carolina General Statutes is hereby rewritten as follows:
“§ 90-160.6. Expenses payable from fees collected by board.—(a) All salaries, compensation, and expenses incurred or allowed for the purposes of carrying out this Article shall be paid by the board exclusively out of the fees received by the board as authorized by this Article, or funds received from other sources. In no case shall any salary, expense, or other obligation of the board be charged against the Treasury of the State of North Carolina. All moneys and receipts
shall be kept in a special fund by and for the use of the board for the exclusive
purpose of carrying out the provisions of this Article.
(b) The schedule of fees shall not exceed the following rates:
Application for examination leading to certificate
and license as registered nurse $45.00
Application for certificate and license as
registered nurse by endorsement 45.00
Application for each re-examination leading to
certificate and license as registered nurse 45.00
Renewal of license to practice as registered
nurse (2-year period) 25.00
Reinstatement of lapsed license to practice as a
registered nurse and renewal fee 50.00
Application for examination leading to certificate and
license as licensed practical nurse by examination 45.00
Application for certificate and license as licensed
practical nurse by endorsement 45.00
Application for each re-examination leading to cer-
tificate and license as licensed practical nurse 45.00
Renewal of license to practice as a licensed practical
nurse (2-year period) 25.00
Reinstatement of lapsed license to practice as
a licensed practical nurse and renewal fee 50.00
Reasonable charge for duplication services and materials.
(e) No refund of fees will be made."
Sec. 2. This act shall become effective July 1, 1981.
In the General Assembly read three times and ratified, this the 23rd day of
June, 1981.

H. B. 1032 CHAPTER 662

AN ACT TO CHANGE THE CLASSIFICATION FOR SECOND DEGREE
MURDER AND CHANGE THE MAXIMUM SENTENCE FOR CLASS C
FELONIES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 1251 of the 1979 Session Laws, Second Session 1980,
is amended by deleting from the last sentence of G.S. 14-17, as that statute
appears in Section 2 of Chapter 1251, the phrase “Class D felon” and
substituting the phrase “Class C felon”.

Sec. 2. Chapter 1316 of the 1979 Session Laws, Second Session 1980, is
amended by rewriting G.S. 14-1.1(a)(3), as that statute appears in Section 1 of
Chapter 1316, to read:
“(3) A Class C felony shall be punishable by imprisonment up to 50 years, or
by life imprisonment, or a fine, or both imprisonment and fine;”.

Sec. 3. Chapter 1316 of the 1979 Session Laws, Second Session 1980, is
amended by rewriting G.S. 15A-1370.1, as it appears in Section 41 of Chapter
1316, to read: “This Article is applicable to all sentenced prisoners, including
Class A and Class B felons, and Class C felons who receive a sentence of life
imprisonment, who are not subject to Article 85A of this Chapter.”
Sec. 4. G.S. 15A-1380.1 is rewritten to read as follows:
"Parole eligibility for prisoners serving a prison or jail term imposed for a felony that occurred on or after the effective date of this Article shall be determined by the provisions of this Article, except that parole eligibility for Class A and Class B felons, and for Class C felons who receive a sentence of life imprisonment shall be determined as provided in Article 85 of this Chapter, and except that parole eligibility for committed youthful offenders shall be determined by G.S. 148-49.15."

Sec. 5. G.S. 15A-1380.2(a) is amended by deleting the second sentence thereof.

Sec. 6. G.S. 148-49.15(a) is amended by adding the following after the first sentence: "Parole of a committed youthful offender shall be subject to G.S. 15A-1372 through 15A-1376."

Sec. 7. G.S. 15A-1340.7(a) is amended by changing the period at the end of the section to a comma, and adding the following phrase: "except that a life term imposed for a Class C felony shall not be subject to subsection (b) of this section but shall be subject to G.S. 148-13(b) for the purposes of good time and gain time deductions."

Sec. 8. G.S. 148-13(b) is amended by inserting the following language after the phrase "Article 81A of Chapter 15A of the General Statutes."; "and prisoners serving a life term for a Class C felony."

Sec. 9. G.S. 148-13(c) is amended by revising the last sentence to read as follows: "The provisions of this subsection shall not apply to persons convicted of Class A or Class B felonies or persons sentenced to a life term for a Class C felony."

Sec. 10. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 23rd day of June, 1981.

S. B. 391

CHAPTER 663

AN ACT TO REPEAL AND AMEND SECTIONS OF THE WAGE AND HOUR ACT.

Whereas, the North Carolina Department of Labor has given close and careful attention to interpreting and enforcing the provisions of the Wage and Hour Act as now written; and

Whereas, it has become apparent there is a need to clarify the act by repealing and amending certain provisions; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 95-25.7 is hereby amended by adding the following sentence at the end thereof:
"Wages based on bonuses, commissions or other forms of calculation shall be paid on the first regular payday after the amount becomes calculable when a separation occurs. Such wages may not be forfeited unless the employee has been notified in accordance with G.S. 95-25.13 of the employer's policy or practice which results in forfeiture. Employees not so notified are not subject to such loss or forfeiture."

Sec. 2. G.S. 95-25.8 is hereby amended by deleting the period at line 7 and adding the following words at the end thereof: "indicating the reason for the deduction. Two types of authorization are permitted:
(a) When the amount or rate of the proposed deduction is known and agreed upon in advance, the authorization shall specify the dollar amount or percentage of wages which shall be deducted from one or more paychecks, provided that if the deduction is for the convenience of the employee, the employee shall be given a reasonable opportunity to withdraw the authorization;

(b) When the amount of the proposed deduction is not known and agreed upon in advance, the authorization need not specify a dollar amount which can be deducted from one or more paychecks, provided that the employee receives advance notice of the specific amount of any proposed deduction and is given a reasonable opportunity to withdraw the authorization before the deduction is made."

Sec. 3. G.S. 95-25.9 is hereby rewritten to read as follows:

"§ 95-25.9. Certain claims not to be deducted immediately.—Cash shortages, inventory shortages, or loss or damage to an employer’s property may not be deducted from an employee’s wages unless the employee receives notice of the amount to be deducted at least seven days prior to the payday on which the deduction is to be made, except when a separation occurs the seven-day notice is not required."

Sec. 4. G.S. 95-25.10 is hereby rewritten to read as follows:

"§ 95-25.10. Combined amounts of certain deductions and recoupments limited.—Cash shortages, inventory shortages, loss or damage to an employer’s property, and deposits by the employee for the use of the employer’s property may be deducted by an employer from an employee’s paycheck in accordance with the requirements of G.S. 95-25.8 and G.S. 95-25.9 or may be recouped by methods other than payroll deductions, provided that the combined amount of such deductions or recoupments shall not reduce wages for the pay period during which the deduction or recoupment occurs below:

(1) eighty-five percent (85%) of the minimum and overtime wages required under this Article when such wages for the employee are determined under this Article, or

(2) the minimum and overtime wages required under the Fair Labor Standards Act when such wages for the employee are determined under that Act, or

(3) an amount equivalent to the amount of minimum and overtime wages which would be required under this Article when the wages for an employee are determined neither by this Article nor by the Fair Labor Standards Act.

Nothing in this section shall prohibit the voluntary repayment of any amount owed by an employee to an employer."

Sec. 5. G.S. 95-25.11 is hereby rewritten to read as follows:

"§ 95-25.11. Employers’ remedies preserved.—(a) The provisions of G.S. 95-25.8, G.S. 95 25.9, and G.S. 95-25.10 do not apply if criminal process has issued against the employee, if the employee has been indicted, or if the employee has been arrested pursuant to Articles 17, 20, and 32 of Chapter 15A of the General Statutes for a charge incident to a cash shortage, inventory shortage, or damage to an employer’s property.

If the employee is not found guilty, then the amount deducted shall be reimbursed to the employee by the employer.
(b) Nothing in this Article shall preclude an employer from bringing a civil action in the General Court of Justice to collect any amounts due the employer from the employee.”

Sec. 6. G.S. 95-25.12 is hereby rewritten to read as follows:

“§ 95-25.12. Vacation pay.—No employer is required to provide vacation for employees. However, if an employer provides vacation for employees, the employer shall give all vacation time off or payment in lieu of time off in accordance with the company policy or practice. Employees shall be notified in accordance with G.S. 95-25.13 of any policy or practice which requires or results in loss or forfeiture of vacation time or pay. Employees not so notified are not subject to such loss or forfeiture.”

Sec. 7. G.S. 95-25.14 is hereby amended and rewritten to read as follows:

“§ 95-25.14. Exemptions.—(a) The provisions of G.S. 95-25.3 (Minimum Wage), G.S. 95-25.4 (Overtime), G.S. 95-25.5 (Youth Employment), and G.S. 95-25.15(b) (Record Keeping) as it relates to these exemptions do not apply to:

1. Any person or establishment required to comply with or subject to the regulation of wages, overtime, child labor and related record keeping under the Fair Labor Standards Act, except as otherwise specifically provided in G.S. 95-25.5;

2. Any person employed in agriculture, as defined under the Fair Labor Standards Act;

3. Any person employed as a domestic, including baby sitters and companions, as defined under the Fair Labor Standards Act;

4. Any person employed as a page in the North Carolina General Assembly or in the Governor’s Office;

5. Bona fide volunteers in medical, educational, religious, or nonprofit organizations where an employer-employee relationship does not exist;

6. Persons confined in and working for any penal, correctional or mental institution of the State or local government;

7. Any person employed as a model, or as an actor or performer in motion pictures or theatrical, radio or television productions, as defined under the Fair Labor Standards Act, except as otherwise specifically provided in G.S. 95-25.5;

8. Any person employed by an outdoor drama in a production role, including lighting, costumes, properties and special effects, except as otherwise specifically provided in G.S. 95-25.5; but this exemption does not include such positions as office workers, ticket takers, ushers and parking lot attendants.

(b) The provisions of G.S. 95-25.3 (Minimum Wage), G.S. 95-25.4 (Overtime), and G.S. 95-25.15(b) (Record Keeping) as it relates to these exemptions do not apply to:

1. Any employee of a boys’ or girls’ summer camp;

2. Any person employed in the catching, processing or first sale of seafood, as defined under the Fair Labor Standards Act;

3. The spouse, child, or parent of the employer or any person qualifying as a dependent of the employer under the income tax laws of North Carolina;

4. Any person employed in a bona fide executive, administrative, professional or outside sales capacity, as defined under the Fair Labor Standards Act;
(5) Any person employed in an enterprise that does not have three or more employees in any workweek;
(6) Any person while participating in a ridesharing arrangement as defined in G.S. 136-44.21.

(c) The provisions of G.S. 95-25.4 (Overtime) and G.S. 95-25.15(b) (Record Keeping) as it relates to this exemption do not apply to:
(1) Drivers, drivers' helpers, loaders and mechanics, as defined under the Fair Labor Standards Act;
(2) Taxicab drivers;
(3) Seamen, employees of railroads, and employees of air carriers, as defined under the Fair Labor Standards Act;
(4) Salespersons, mechanics and partsmen employed by automotive, truck, and farm implement dealers, as defined under the Fair Labor Standards Act;
(5) Salespersons employed by trailer, boat, and aircraft dealers, as defined under the Fair Labor Standards Act;
(6) Live-in child care workers or other live-in employees in homes for dependent children;
(7) Radio and television announcers, news editors, and chief engineers, as defined under the Fair Labor Standards Act.

(d) The provisions of this Article do not apply to the State of North Carolina, any city, town, county, or municipality, or any State or local agency or instrumentality of government, except for the following provisions, which do apply:
(1) The minimum wage provisions of G.S. 95-25.3;
(2) The definition provisions of G.S. 95-25.2 necessary to interpret the applicable provisions;
(3) The exemptions of subsections (a) and (b) of this section;
(4) The complainant protection provisions of G.S. 95-25.20.

(e) Employment in a seasonal recreation program by the State of North Carolina, any city, town, county, or municipality, or any State or local agency or instrumentality of government, is exempt from all provisions of this Article, including G.S. 95-25.3 (Minimum Wage)."

Sec. 8. G.S. 95-25.20 is hereby amended by striking the number "30" in line 5 and substituting in lieu thereof the number "60".

G.S. 95-25.20 is further amended and divided into subsections by designating the present section as subsection (a) and by adding a new subsection (b), to read as follows:

"(b) Files and other records relating to investigations and enforcement proceedings pursuant to this Article shall not be subject to inspection and examination as authorized by G.S. 132-6 while such investigations and proceedings are pending."

Sec. 9. G.S. 95-25.23 is hereby amended by adding a new subsection immediately following subsection (c), to be designated subsection (d), and to read as follows:

"(d) Assessment of penalties under this section shall be subject to a two-year statute of limitations commencing at the time of the occurrence of the violation."
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Sec. 10. G.S. 95-25.2(11) is hereby amended and rewritten to read as follows:

"(11) 'Person' means an individual, partnership, association, corporation, business trust, legal representative, or any organized group of persons. For the purposes of G.S. 95-25.2, G.S. 95-25.3, G.S. 95-25.14, and G.S. 95-25.20, it also means the State of North Carolina, any city, town, county, or municipality, or any State or local agency or instrumentality of government. The Government of the United States and any agency of the United States (including the United States Postal Service and Postal Rate Commission) are not included as persons for any purpose under this Article."

Sec. 11. G.S. 95-25.2 is hereby amended by adding a new subdivision immediately following subdivision (17), to be designated subdivision (18), and to read as follows:

"(18) 'Enterprise' means the related activities performed either through unified operations or common control by any person or persons for a common business purpose and includes all such activities whether performed in one or more establishments or by one or more corporate units but shall not include the related activities performed for such enterprise by an independent contractor or franchisee."

Sec. 12. G.S. 95-25.13 is hereby amended by striking from subdivision (3) the reference to "(b)" in line 11 and substituting in lieu thereof "(2)".

Sec. 13. G.S. 95-25.3(b) is hereby amended on line 3 thereof by striking all that appears after the word "be" and substituting the following:

"ninety percent (90%) of the rate in effect under subsection (a) above, rounded to the lowest nickel."

Sec. 14. G.S. 136-44.25, as enacted by Chapter 606, Session Laws of 1981, is amended by deleting the citation "G.S. 95-25.14(b)(5)", and inserting in lieu thereof the citation "G.S. 95-25.14(b)(6)".

Sec. 15. This act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 24th day of June, 1981.

S. B. 396 CHAPTER 664

AN ACT TO INCREASE THE PUNISHMENT FOR STEALING HORSES, MULES, SWINE, AND CATTLE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-81 is rewritten to read:

"§ 14-81. Larceny of horses, mules, swine, and cattle.—(a) Larceny of horses, mules, swine, or cattle is a felony punishable by imprisonment for up to 10 years, a fine, or both.

(b) In sentencing a person convicted of violating this section, the judge shall, as a minimum punishment, place a person on probation subject to the following conditions:

(1) a person must make restitution for the damage or loss caused by the larceny of the livestock, and

(2) a person must pay a fine of not less than the amount of the damages or loss caused by the larceny of the livestock.

(c) No provision in this section shall limit the authority of the judge to sentence the person convicted of violating this section to an active sentence."

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Sec. 2. Chapter 1316 of the 1979 Session Laws (1980 Session) is amended by adding a new section to read:

"Sec. 11.5. G.S. 14-81 is rewritten to read:

'§ 14-81. Larceny of horses, mules, swine, and cattle.—(a) Larceny of horses, mules, swine, or cattle is a Class H Felony.

(b) In sentencing a person convicted of violating this section, the judge shall, as a minimum punishment, place a person on probation subject to the following conditions:

(1) a person must make restitution for the damage or loss caused by the larceny of the livestock, and

(2) a person must pay a fine of not less than the amount of the damages or loss caused by the larceny of the livestock.

(c) No provision in this section shall limit the authority of the judge to sentence the person convicted of violating this section to an active sentence.'"

Sec. 3. This act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 24th day of June, 1981.

H. B. 1067

CHAPTER 665

AN ACT TO PERMIT THE MEDICAL BOARD AND THE NURSING BOARD TO SET CERTAIN FEES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-6 is amended as follows: by striking out the period at the end of the first sentence of the second paragraph of such section and inserting in lieu thereof a comma and adding the words "including the determination of reasonable fees to accompany an application for renewal of such approval not to exceed one hundred dollars ($100.00) and for renewal of such approval not to exceed fifty dollars ($50.00)."

Sec. 2. G.S. 90-160.2(b)(14) is amended as follows: by striking out the semicolon and adding the words "including the determination of reasonable fees to accompany an application for renewal of such approval not to exceed one hundred dollars ($100.00) and for renewal of such approval not to exceed fifty dollars ($50.00)."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1981.

S. B. 710

CHAPTER 666

AN ACT TO CHANGE THE FORM OF GOVERNMENT OF THE TOWN OF STONEVILLE TO COUNCIL-MANAGER, AND TO VALIDATE CERTAIN ACTS OF THE TOWN.

The General Assembly of North Carolina enacts:

Section 1. Chapter 99, Private Laws, Extra Session 1920, is amended by adding a new section to read:


Sec. 2. Any and all official acts and actions by the Town Council and the Manager since May 18, 1981, but before the date of ratification of this act,
which were taken in accordance with "AN ORDINANCE CREATING THE OFFICE OF CITY MANAGER IN THE CITY OF STONEVILLE, N.C. AND PROVIDING FOR HIS POWERS AND DUTIES", but which were not in accordance with the Charter of the Town of Stoneville are hereby ratified, validated, and confirmed.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1981.

H. B. 675  CHAPTER 667
AN ACT TO ALLOW THE SECRETARY OF HUMAN RESOURCES TO SUSPEND THE AUTHORITY OF A NURSING HOME OR DOMICILIARY HOME TO ADMIT PATIENTS OR RESIDENTS WHERE THE CONDITIONS AT THE HOME ARE DETRIMENTAL TO HEALTH OR SAFETY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 130 of the General Statutes is amended by adding a new section to read:

"§ 130-9.7. Suspension of admissions to nursing home or domiciliary home.—
(a) The Secretary of Human Resources may suspend the admission of any new patients or residents at any nursing home or domiciliary home, where the conditions of the nursing home or domiciliary home are detrimental to the health or safety of the patient or resident. Such suspension shall be for the period determined by the Secretary. Such suspension shall remain in effect until the Secretary is satisfied that conditions or circumstances merit the removing of the suspension.

(b) This section shall be in addition to authority to suspend or revoke the license of the home.

(c) For the purpose of this section, the words 'nursing home' and 'domiciliary home' shall have the same meaning as defined in G.S. 130-9(e) and G.S. 108-77, as appropriate.

(d) In imposing the sanctions authorized by subsection (a) of this section, the Secretary shall consider the following factors:

(1) The degree of sanctions necessary to insure compliance with G.S. 130-9, Article 30 of this Chapter or G.S. 108-77, as appropriate, and rules and regulations adopted under those statutes.

(2) The character and degree of impact of the conditions at the home on the health or safety of the patients or residents at the facility.

(e) The Secretary of Human Resources shall promulgate rules to implement this section."

Sec. 2. The revisor of statutes shall change the references to G.S. 108-77 in G.S. 130-9.7 to the appropriate section in Chapter 131C of the General Statutes, as recodified in Section 2 of Chapter 275, Session Laws of 1981.

Sec. 3. This act shall become effective January 1, 1982, except that G.S. 130-9.7(e) is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1981.
H. B. 698

CHAPTER 668

AN ACT TO ALLOW THE CITY OF MARION TO SUBMIT PLANS FOR WATER AND SEWER IMPROVEMENTS WITHOUT THE SEAL OF A REGISTERED PROFESSIONAL ENGINEER.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding any provision of the General Statutes, or any rule or regulation of a State agency, plans for water or sewer line replacement or extensions prepared by the City of Marion shall not be required to bear the seal of a registered professional engineer if no federal or State funds will be used to finance the project, the project will be constructed by regular employees of the city, the project will not exceed 1,000 feet in the length of the water or sewer line, the project does not include any pumping or lift station or sewer force main, and provided that no extension on an extension be made within one year. This section shall apply only to water lines of six inches or less and/or sewer lines of eight inches or less.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1981.

H. B. 1094

CHAPTER 669

AN ACT TO REPEAL THE INVENTORY AND STAMP REQUIREMENTS FOR BEER AND WINE SALES TO MILITARY RESERVATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-113.86(j) is hereby amended by:

(a) adding the following sentence at the end of the first paragraph:

"The Secretary of Revenue may require such resident manufacturers, wholesale distributors, and importers to submit with the monthly report required under subsection (c) invoices or equivalent proof of such sales on which the excise tax is not levied."; and

(b) rewriting the second paragraph in its entirety as follows:

"The Secretary of Revenue may require each manufacturer or bottler manufacturing beverages within or outside the State of North Carolina which are intended to be sold and are thereafter sold to the Army, Navy, Air Force, Coast Guard services or any other military establishment in North Carolina to identify such beverages by placing on the label, crown, can end, or kegs the phrase 'For Military Use Only', any and all laws, regulations, and requirements to the contrary notwithstanding. Provided that all other malt beverages intended for sale in North Carolina shall bear no special identification other than proprietary crowns, lids, or stamps."

Sec. 2. This act shall become effective January 1, 1982.

In the General Assembly read three times and ratified, this the 24th day of June, 1981.

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H. B. 1105  CHAPTER 670

AN ACT TO AMEND CHAPTER 282 OF THE 1981 SESSION LAWS TO CLARIFY WHEN ONE SAVINGS AND LOAN ASSOCIATION MAY MERGE WITH ANOTHER.

The General Assembly of North Carolina enacts:

Section 1. Chapter 282 of the 1981 Session Laws is amended in the first sentence of G.S. 54B-35 by deleting the words "organized or" and substituting in lieu thereof the words "organized and".

Sec. 2. Chapter 282 of the 1981 Session Laws is amended by adding a new paragraph G.S. 54B-44 as follows:

"§54B-44. Supervisory mergers, consolidations and conversions.—(a) Notwithstanding any other provision of this Chapter, in order to protect the public, including members, depositors and shareholders of State associations, the Administrator, upon making a finding that a State association is unable to operate in a safe and sound manner, may authorize a short form conversion, if the finding is made with regard to a mutual association, or a merger or consolidation of the State association as to which the finding was made, with any other State association.

(b) The Administrator shall promulgate rules and regulations to govern supervisory mergers, consolidations and conversions authorized by this section."

Sec. 3. This act is effective upon ratification but shall not apply to any Savings and Loan Association chartered, but not yet operating, prior to said effective date.

In the General Assembly read three times and ratified, this the 24th day of June, 1981.

H. B. 331  CHAPTER 671

AN ACT TO AMEND CERTAIN SECTIONS OF CHAPTER 53 AND OTHER CHAPTERS OF THE GENERAL STATUTES RELATING TO BANKS AND THE COMMISSIONER OF BANKS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 53-12 is rewritten in its entirety to read as follows:

"§53-12. Merger or consolidation of banks.—A bank may merge or consolidate with or transfer its assets and liabilities to another bank. Before such merger or consolidation or transfer shall become effective, each bank concerned in such merger or consolidation or transfer shall file, or cause to be filed, with the Commissioner of Banks, certified copies of all proceedings had by its directors and stockholders, which said stockholders’ proceedings shall set forth that holders of at least two thirds of the stock voted in the affirmative on the proposition of merger or consolidation or transfer. Such stockholders’ proceedings shall also contain a complete copy of the agreement made and entered into between said banks, with reference to such merger or consolidation or transfer. Upon the filing of such stockholders’ and directors’ proceedings as aforesaid, the Commissioner of Banks shall cause to be made an investigation of each bank to determine whether the interests of the depositors, creditors, and stockholders of each bank are protected, and find such merger or consolidation is in the public interest, and that such merger or consolidation or transfer is
made for legitimate purposes, and his consent to or rejection of such merger or consolidation or transfer shall be based upon such investigation. No such merger or consolidation or transfer shall be made without the consent of the Commissioner of Banks. The expense of such investigation shall be paid by such banks. Notice of such merger or consolidation or transfer shall be published for four weeks before or after the same is to become effective, at the discretion of the Commissioner of Banks, in a newspaper published in a city, town, or county in which each of said banks is located, and a certified copy thereof shall be filed with the Commissioner of Banks. In case of either transfer or merger or consolidation the rights of creditors shall be preserved unimpaired, and the respective companies deemed to be in existence to preserve such rights for a period of three years."

Sec. 2. G.S. 53-13 is rewritten in its entirety to read as follows:

"§ 53-13. Merged or consolidated banks deemed one bank.—In case of merger or consolidation when the agreement of merger or consolidation is made, and a duly certified copy thereof is filed with the Secretary of State, together with a certified copy of the approval of the Commissioner of Banks to such merger or consolidation, the banks, parties thereto, shall be held to be one company, possessed of the rights, privileges, powers, and franchises of the several companies, but subject to all the provisions of law under which it is created. The directors and other officers named in the agreement of consolidation shall serve until the first annual meeting for election of officers and directors, the date for which shall be named in the agreement. On filing such agreement, all and singular, the property and rights of every kind of the several companies shall thereby be transferred and vested in such surviving company in the case of merger or in such new company in the case of consolidation, and be as fully its property as they were of the companies parties to the agreement."

Sec. 3. G.S. 53-42.1 is amended in the caption thereof by deleting the words "Report of changes in ownership" and inserting in lieu thereof the words "Change in bank control."

Sec. 4. G.S. 53-42.1(a) is rewritten in its entirety to read as follows:

"(a) (1) No person shall acquire voting stock of any bank or bank holding company, as defined in Section 2 of the Bank Holding Company Act of 1956 as amended, which will result in a change in the control of the bank or bank holding company unless the Commissioner of Banks shall have approved the proposed acquisition.

(2) Written application for the proposed change in control of a bank or bank holding company must be filed with the Commissioner of Banks in such form as he may prescribe and contain such information as he may require at least 60 days prior to effective date of the proposed acquisition. The Commissioner of Banks shall approve the proposed change of control, unless upon examination and investigation he finds that

(i) the character, competence, general fitness, experience or integrity of any acquiring person or of any of the proposed management personnel shows that it would not be in the interest of the depositors of the bank, or in the interest of the public to permit such person to control the bank or bank holding company; or"
(ii) the financial condition of any acquiring person is such as might jeopardize the financial stability of the bank or bank holding 
company or prejudice the interests of the depositors of the bank. 

All information contained in any application or report filed under this 
section and all information produced by examination and investigation of any 
application or report by the Commissioner of Banks shall be confidential and 
not available for public inspection.

(3) The provisions of this subsection shall not apply to the following 
transactions:
(i) the acquisition of bank shares or assets which is subject to approval 
under Section 3 of the Bank Holding Company Act as amended (12 
U.S.C. 1842);
(ii) the acquisition of shares of a bank holding company as defined by 
Section 2 of the Bank Holding Company Act as amended (12 U.S.C. 
1841) which bank holding company has a National bank as its 
principal banking subsidiary;
(iii) the acquisition of shares in connection with securing, collecting, or 
satisfying a debt previously contracted in good faith;
(iv) the acquisition of shares by will or through intestate succession; and
(v) the acquisition of shares by gift, unless such gift is made for the 
purpose of circumventing this section.

In the event of an acquisition of shares which is exempted by (iii), (iv), or (v) 
above, the person acquiring the shares shall report the transaction to the 
Commissioner of Banks within 30 days after the acquisition. The report shall 
contain such information and be in such form as the Commissioner shall 
request and prescribe.

(4) As used in this section the following terms shall have the following 
meanings:
(i) 'control' means the possession, directly or indirectly, of the power to 
direct or cause the direction of the management and policy of the 
bank or bank holding company, or ownership of as much as ten 
percent (10%) of the outstanding voting stock in a bank or bank 
holding company; and
(ii) 'person' means an individual or a corporation, partnership, trust, 
association, joint venture, pool, syndicate, sole proprietorship, 
unincorporated organization or any other form of entity not 
specifically listed herein.”

Sec. 5. G.S. 53-42.1(b) is amended by adding in line 7 thereof after the 
word “opening.” a new sentence to read as follows:

“The report shall show the identity of borrower, the name of the bank 
issuing the stock securing the loan, the number of shares securing the loan and 
the amount of the loan or loans, and this report shall be in addition to any 
report that may be required pursuant to other provisions of law.”

Sec. 6. G.S. 53-42.1(c) is repealed and G.S. 53-42.1(d) is redesignated as 
G.S. 53-42.1(c).

Sec. 7. G.S. 53-43(3) is rewritten in its entirety to read as follows:

“(3) To purchase, hold, and convey real estate for the following purposes:
   a. Such as shall be necessary for the convenient transaction of its business, 
      including furniture and fixtures, with its banking offices and other 
      spaces to rent as a source of income, which investment shall not exceed
fifty percent (50%) of its unimpaired capital fund: Provided, that this fifty percent (50%) limitation shall not apply to banking houses, furniture and fixtures leased for the purposes set forth in this subdivision. Provided, further, that if any bank shall demonstrate to the satisfaction of the Commissioner of Banks that an investment of more than fifty percent (50%) of its unimpaired capital fund in its banking houses, furniture and fixtures, would promote the convenience of the general public in transacting its banking business and would not adversely affect the financial stability of the bank, the Commissioner of Banks may, in his discretion, authorize any bank to invest more than fifty percent (50%) of its unimpaired capital fund in its banking houses, furniture and fixtures.

b. Such as is mortgaged to it in good faith by way of security for loans made or moneys due to such banks.

c. Such as has been purchased at sales upon foreclosures of mortgages and deeds of trust held or owned by it, or on judgments or decrees obtained and rendered for debts due to it, or in settlements affecting security of such debts. All real property referred to in this subdivision shall be sold by such bank within one year after it is acquired unless, upon application by the board of directors, the Commissioner of Banks extends the time within which such sale shall be made. Any and all powers and privileges heretofore granted and given to any person, firm, or corporation doing a banking business in connection with a fiduciary and insurance business, or the right to deal to any extent in real estate, inconsistent with this Chapter, are hereby repealed.”

Sec. 8. G.S. 53-43.3 is amended by deleting the word "qualified" after the words "officer-employee" in line 7 thereof; and by deleting the last sentence of the section.

Sec. 9. G.S. 53-50(a) is rewritten in its entirety to read as follows:

“(a) A bank which is not a member of the Federal Reserve System shall maintain at all times a reserve fund in such amounts and/or ratios as shall be fixed by regulation of the Banking Commission. In fixing the amounts and/or ratios of the reserve fund the Banking Commission shall take into consideration the level of liquidity necessary to assure the safety and soundness of the State banking system.”

Sec. 10. G.S. 53-51(a) is amended by adding after line 16 and before Subsection (b) a new subdivision to read as follows:

“(4) Balances maintained at a Federal Reserve Bank either directly or on a pass-through basis to meet the reserve requirements of the Federal Reserve System.”

Sec. 11. G.S. 53-75 is amended by adding in line 11 after the word "cause," a new sentence to read as follows:

"Every bank operating under this Chapter shall render a statement of account for each deposit account, including NOW or similar accounts, at least annually to the last known address of the depositor; provided, however, such statements are not required for time deposits, or for savings deposits evidenced by passbooks. Every bank operating under this Chapter shall render a statement of account for each deposit account, including demand, time, savings, NOW, and other similar accounts upon receipt of an appropriate request reasonably made by a depositor.”
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Sec. 12. G.S. 53-106 is amended by adding in line 7 after the word “be.” a new sentence to read as follows:
“The Commissioner of Banks may extend the time for filing special reports for a period not to exceed 30 days.”

Sec. 13. G.S. 53-122(3) is rewritten in its entirety to read as follows:
“(3) The Commissioner of Banks may require reimbursement for all costs and expenses incurred in providing services other than examination for any bank or any licensee under Article 15 of this Chapter.”

Sec. 14. G.S. 53-145 is amended by inserting after the numbers 53-42 and before the numbers 53-47 in line 3 thereof the numbers “53-42.1.”

Sec. 15. G.S. 53-168(b) is amended in line 11 thereof by deleting the words and figure “one hundred dollars ($100.00)” and inserting in lieu thereof the words and figure “two hundred fifty dollars ($250.00).”

Sec. 16. G.S. 65-36.5(b) is rewritten in its entirety to read as follows:
“(b) Each application for a license shall be accompanied by a nonrefundable investigation fee of twenty-five dollars ($25.00). If the license is granted, the investigation fee shall be applied to the annual license fee for the first year or part thereof. Upon receipt of the application and payment of the investigation fee, the Department shall issue a renewable license unless it determines that the applicant has made false statements or representations in the application, or is insolvent, or has conducted, or is about to conduct, his business in a fraudulent manner, or is not duly authorized to transact business in this State. Each licensee under this Article shall pay annually to the Department on or before June 30 of each year, a license fee of twenty-five dollars ($25.00).”

Sec. 17. G.S. 65-36.5(c) is amended in line 2 thereof by deleting the words and figure “two dollars ($2.00)” and inserting in lieu thereof the words and figure “ten dollars ($10.00).”

Sec. 18. G.S. 116B-39(b) is amended by adding in line 6 thereof after the word “State.” a new sentence to read as follows:
“All costs resulting from examination by the Commissioner of Banks of the records of financial institutions other than banks organized under Chapter 53 of the General Statutes shall become an obligation of the Escheat Fund and payable on demand of the State Treasurer upon receipt of proof of cost from the Commissioner of Banks.”

Sec. 19. This act is effective on July 1, 1981.

In the General Assembly read three times and ratified, this the 24th day of June, 1981.

H. B. 825  CHAPTER 672

AN ACT TO ELIMINATE THE PAYMENT OF REGULAR INTEREST IN THE RETURN OF ACCUMULATED CONTRIBUTIONS FROM THE TEACHERS’ AND STATE EMPLOYEES’ RETIREMENT SYSTEM, LOCAL GOVERNMENTAL EMPLOYEES’ RETIREMENT SYSTEM, LAW ENFORCEMENT OFFICERS’ BENEFIT AND RETIREMENT FUND, AND UNIFORM JUDICIAL RETIREMENT SYSTEM EXCEPT TO MEMBERS WITH FIVE OR MORE YEARS OF MEMBERSHIP SERVICE.
The General Assembly of North Carolina enacts:

Section 1. G.S. 135-5(f) is amended in the first sentence thereof by deleting the words "the sum of his contributions and the accumulated regular interest thereon" and inserting in lieu thereof the words "his contributions, and if he has attained at least five years of membership service or if termination of his membership service is involuntary as certified by the employer, the accumulated regular interest thereon".

Sec. 2. G.S. 128-27(f) is amended in the first sentence thereof by deleting the words "the sum of his contributions and the accumulated regular interest thereon" and inserting in lieu thereof the words "his contributions and, if he has attained at least five years of membership service or if termination of his membership service is involuntary as certified by the employer, the accumulated regular interest thereon".

Sec. 3. G.S. 143-166(k) is amended by rewriting the section to read as follows:

“(k) Should a member cease to be an officer except by death or retirement under the provisions of this Article, he shall upon submission of an application be paid, not earlier than 60 days from the date of termination of service, his contributions and, if he has attained five years of creditable service or if termination of his membership service is involuntary as certified by the employer, the accumulated regular interest thereon, provided that he has not in the meantime returned to service; provided further that the 60-day period may be waived upon request if the termination of service is involuntary as certified by the employer. Upon payment of such contributions and appropriate interest his membership shall cease and such payment shall be in full and complete discharge of any rights in or to any benefits otherwise payable under this Article.”

Sec. 4. G.S. 135-62 is amended in the first sentence thereof by deleting the words "the amount of his accumulated contributions" and inserting in lieu thereof the words "his contributions and, if he has attained at least five years of membership service or if termination of his membership service is involuntary as certified by the employer, the accumulated regular interest thereon."

Sec. 5. This act shall become effective July 1, 1981, provided, however, nothing contained in this act shall affect any interest that has accrued to the account of any member prior to the effective date of this act.

In the General Assembly read three times and ratified, this the 24th day of June, 1981.

H. B. 892

CHAPTER 673
AN ACT TO AMEND G. S. 20-37.7 RELATING TO SPECIAL IDENTIFICATION CARD.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-37.7(a) is hereby amended by placing a period after the word "Carolina" appearing as the last word in line 3 and by striking the remainder of subsection (a) which reads, "and for any reason does not possess a valid driver's license issued by the Division of Motor Vehicles."

Sec. 2. G.S. 20-37.7(d) is hereby rewritten to read as follows:

“(d) A special identification card shall not expire but may be reissued. The fee for the issuance or reissuance of a special identification card shall be one dollar
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($1.00); provided that a special identification card may be issued without fee to a resident of North Carolina who is legally blind or has attained the age of 70 years.”

Sec. 3. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 24th day of June, 1981.

S. B. 513   CHAPTER 674
AN ACT TO REMOVE THE PRE-MARITAL BLOOD TEST FOR VENEREAL DISEASE AS A REQUIREMENT FOR A MARRIAGE LICENSE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 51-9 is amended by deleting the second, third and fourth sentences of the first paragraph, beginning with the phrase “Such certificate shall be accompanied” and ending with the phrase “approved laboratory under this section.”

Sec. 2. This act is effective upon ratification and applies to marriage licenses issued on or after this date.
In the General Assembly read three times and ratified, this the 24th day of June, 1981.

H. B. 405   CHAPTER 675
AN ACT TO ESTABLISH EFFECTIVE PROCEDURES TO ENABLE CERTAIN ELDERLY PERSONS IN NEED OF CARE TO STAY AT HOME AND TO PROVIDE THE IN-HOME SERVICES NECESSARY TO CARE FOR THEM.

Whereas, the aging population in North Carolina presently constitutes over fourteen percent (14%) of the total population and is increasing three times faster than the State population as a whole; and
Whereas, advancements in medical knowledge about aging and an increase in this population have necessitated a review of services to the elderly; and
Whereas, North Carolina has long recognized that elderly persons in need of care are often most desirous of remaining at home, and if properly identified and provided supportive care could remain at home; and
Whereas, the Department of Human Resources recognizes the need to emphasize in-home care and has a rudimentary screening program designed to keep those elderly people at home when needs are not so great as to require institutionalization; but
Whereas, the screening process stresses medical needs only, does not adequately identify those elderly people in need of social services to remain at home, and does not adequately provide for programs of care to permit those people to stay at home; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Article 3 of Chapter 143B of the General Statutes is amended by adding a new Part 14B to read:

"Part 14B.

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"Long Term Care.

"§ 143B-181.5. Department to develop systems of long term care.—The Secretary of the Department of Human Resources shall develop effective systems of long term care with interested counties to the extent that federal, State and local funds are available to support the expanded programs and services.

"§ 143B-181.6. Screening program for elderly.—The Secretary of Human Resources shall develop a comprehensive screening program for elderly people in need of care, to be administered at the local level, focused on providing elderly persons with the least restrictive level of care that meets the medical and social needs of the person. This program shall provide for expansion of the preadmission screening of applicants and recipients in need of long-term care, setting priorities according to immediate need. The process should be made more efficient in identifying those people in need of care who could remain at home if provided the precise program of in-home care each individual requires. Private paying patients may take advantage of the screening services and services necessary to remain in their homes by paying fees for these services, pursuant to G.S. 108-15.1 or G.S. 130-17(e) as appropriate. The screening shall be carried out by a team of at least two people, a social worker and a registered nurse familiar with care of the elderly, each of whom must be experienced in evaluation and provision of in-home services. The process shall include a visit to the home by at least one member of the screening team. The team in consultation with a physician licensed to practice medicine in North Carolina shall determine if in-home care, whether health, social or both would enable the person to stay at home or in the community. The team shall plan precisely what program of care and support services are available through both public or private agencies. Provision must be made for such care in conformity with established quality assurance procedures for the care so rendered, together with periodic reassessment. Nothing contained in the act shall require counties to participate in the comprehensive screening program.

"§ 143B-181.7. Development and implementation of rules.—The Department of Human Resources shall define by rule the population to be screened, establish a uniform screening and assessment schedule, and promulgate a uniform reporting form. Prior to action by the Department, the Secretary shall convene an implementation committee composed of local providers, representatives of State agencies and organizations with experience and information about in-home services and long-term care to assist in implementation and development of these rules.

"§ 143B-181.8. Utilization of Medicaid funds.—The Secretary of the Department of Human Resources may utilize Medicaid funds to the extent provided for by federal law and regulation for home health and personal care and seek such waivers as may be necessary to implement this act including Medicaid eligibility criteria supporting the provision of in-home care.

"§ 143B-181.9. Reporting.—The Department shall report to the Legislative Research Commission on the implementation of this act, including the eligibility requirements, screening processes, and financial barriers to implementation. Such report shall be made no later than January 1, 1982, but the Legislative Research Commission may require interim progress reports from the Department."
CHAPTER 675       Session Laws—1981

Sec. 2. Effective October 1, 1981, the reference in Section 1 of this act to G.S. 108-15.1 is changed to G.S. 108A-10.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of June, 1981.

H. B. 695       CHAPTER 676

AN ACT TO STUDY AND REGULATE THE PRACTICE OF MIDWIFERY IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. The Secretary of the Department of Human Resources is hereby directed to undertake a study of the safety and efficacy of out-of-hospital delivery, including an examination of the State's role in licensing or otherwise permitting the activities of birth attendants functioning in the nonhospital setting. The Secretary shall consult with representatives of the North Carolina Board of Medical Examiners, the North Carolina Board of Nursing, the North Carolina Commission for Health Services, experts from the fields of obstetrics, public health, nurse midwifery and lay midwifery, as well as citizens who have a strong interest in out-of-hospital delivery. The Secretary shall report the findings of this study to the 1983 Session of the General Assembly.

Sec. 2. G.S. 130-187 is rewritten to read as follows:

"§ 130-187. Regulation of midwives.—No person shall practice midwifery in this State without a permit granted by the Department of Human Resources and also being under the supervision of a physician licensed to practice medicine. The department shall issue a permit to only those applicants who have been certified as Certified Nurse Midwives by the American College of Nurse-Midwives and who otherwise demonstrate sufficient training and experience."

Sec. 3. G.S. 90-172 is amended on lines 3 and 4 by deleting the words "or a local department of health".

Sec. 4. G.S. 130-112 is amended by deleting everything after the word "registration" on line 5.

Sec. 5. Any individual who has held a valid midwifery permit in North Carolina for more than 10 years may continue to practice midwifery.

Sec. 6. Severability. If any provision of this act or the application thereof to any person or circumstances is held invalid, the invalidity does not affect the provision or application of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Sec. 7. Funding. The provisions of this act shall be implemented without the appropriation of funds by the General Assembly.

Sec. 8. This act is effective July 1, 1981.

In the General Assembly read three times and ratified, this the 25th day of June, 1981.

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H. B. 883

CHAPTER 677

AN ACT TO EXEMPT CERTAIN NONHAZARDOUS SMALL JOBS FROM CITY AND COUNTY BUILDING INSPECTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-417 is amended by inserting before the last sentence which reads, "Violation of this section shall constitute a misdemeanor," the following:

"No permit issued under Articles 9 or 9C of G.S. Chapter 143 shall be required for any construction, installation, repair, replacement, or alteration costing twenty-five hundred dollars ($2500) or less in any single family residence or farm building unless the work involves: the addition, repair or replacement of load bearing structures; the addition (excluding replacement of same size and capacity) or change in the design of plumbing; the addition, replacement or change in the design of heating, air conditioning, or electrical wiring, devices, appliances, or equipment; the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing."

Sec. 2. G.S. 153A-357 is amended by inserting before the last sentence which reads, "Violation of this section shall constitute a misdemeanor," the following:

"No permit issued under Articles 9 or 9C of G.S. Chapter 143 shall be required for any construction, installation, repair, replacement, or alteration costing twenty-five hundred dollars ($2500) or less in any single family residence or farm building unless the work involves: the addition, repair or replacement of load bearing structures; the addition (excluding replacement of same size and capacity) or change in the design of plumbing; the addition, replacement or change in the design of heating, air conditioning, or electrical wiring, devices, appliances, or equipment; the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing."

Sec. 3. G.S. 143-138(b) is amended by adding the following language between paragraphs three and four:

"Provided further, that no building permit shall be required under the Code or any local variance thereof approved under subsection (e) for any construction, installation, repair, replacement, or alteration costing twenty-five hundred dollars ($2500) or less in any single family residence or farm building unless the work involves: the addition, repair, or replacement of load bearing structures; the addition (excluding replacement of same size and capacity) or change in the design of plumbing; the addition, replacement or change in the design of heating, air conditioning, or electrical wiring, devices, appliances, or equipment, the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing."

Sec. 4. This act shall become effective 30 days after ratification.

In the General Assembly read three times and ratified, this the 25th day of June, 1981.

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CHAPTER 678  Session Laws—1981

H. B. 972  CHAPTER 678
AN ACT TO CLARIFY THE PROVISIONS OF THE MACHINERY ACT ON LISTING REAL PROPERTY CHARACTERISTICS IN PREPARATION FOR REVALUATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-317(b) is amended by deleting subdivision (2); renumbering subdivision (3) as subdivision (2); deleting the phrase "(b)(3)" in subdivision (3); and adding subdivisions (3), (4) and (5) to read:

"(3) The property characteristics considered in appraising each lot, parcel, tract, building, structure and improvement, in accordance with the schedules of values, standards, and rules adopted pursuant to subsection (b), be accurately recorded on the appropriate property record.

(4) Upon the request of the owner, the board of equalization and review, or the board of county commissioners, any particular lot, parcel, tract, building, structure or improvement be actually visited and observed to verify the accuracy of property characteristics on record for that property.

(5) Each lot, parcel, tract, building, structure and improvement be separately appraised by a competent appraiser, either one appointed under the provisions of G.S. 105-296 or one employed under the provisions of G.S. 105-299.

(6) Notice is given in writing to the owner that he is entitled to have an actual visitation and observation of his property to verify the accuracy of property characteristics on record for that property."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of June, 1981.

H. B. 994  CHAPTER 679
AN ACT TO PROHIBIT CONFLICTS OF INTEREST BY OFFICERS AND EMPLOYEES ADMINISTERING THE STATE MEDICAL ASSISTANCE PLAN.

The General Assembly of North Carolina enacts:

Section 1. Chapter 108 of the General Statutes is amended by adding a new section following G.S. 108A-86, to read as follows:

"§ 108A-87. Conflict of interest.—(a) It shall be unlawful for any person who is or has been an officer or employee of State or county government, and as such is or has been responsible for the expenditure of substantial amounts of federal, State or county money under the State medical assistance plan, or any person who is the partner of the present or former officer or employee, to engage in any of the following activities relating to the State medical assistance program:

(1) Knowingly to act as agent or attorney for, or otherwise knowingly to represent, any person other than the United States, the State or a county, in any formal or informal appearance before, or with the intent to influence, make any oral or written communication on behalf of any other person other than the United States, the State or a county to:
   (i) Any department, agency, court, board, commission, legislature or committee of the United States, the State or a county, or any officer or employee thereof,
(ii) In connection with any of the following matters in which the United States, the State, or a county is a party or has a direct and substantial interest, such as any judicial or other proceeding, legislation, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter involving a specific party or parties,

(iii) In which he participated personally and substantially as an officer or an employee through decision, approval, recommendation, the rendering of advice, investigation or otherwise.

(2) Within two years after his employment has ceased, knowingly to act as agent or attorney for, or otherwise knowingly to represent, any other person other than the United States, the State or a county, in any formal or informal appearance before, or, with the intent to influence, make any oral or written communication on behalf of any other person other than the United States, the State or a county to:

(i) Any department, agency, court, board, commission, legislature or committee of the United States, the State, or a county, or any officer or employee thereof,

(ii) In connection with any of the following matters in which the United States, the State, or a county is a party or has a direct and substantial interest, such as, any judicial or other proceeding, legislation, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter involving a specific party or parties,

(iii) Which was actually pending under his official responsibility as an officer or employee within a period of one year prior to the termination of responsibility.

(3) Within two years after his employment has ceased, knowingly to aid, counsel, advise, consult or by personal presence represent any other person other than the United States, the State or a county in any formal or informal appearance before:

(i) Any department, agency, court, board, commission, legislature or committee of the United States, the State, or the county, or any officer or employee thereof,

(ii) In connection with any of the following matters in which the United States, the State, or a county is a party or has a direct and substantial interest, such as, any judicial or other proceeding, legislation, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter involving a specific party or parties,

(iii) Which was actually pending under his official responsibility as an officer or employee within the period of one year prior to the termination of such responsibility.

(4) To participate personally and substantially as an officer or employee, through decision, approval, disapproval, recommendation, rendering of advice, investigation or otherwise, in a judicial or other proceeding legislation, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest or other particular matter in which, to his knowledge, he, his spouse, minor child, partner, organization in which he is serving as an officer, director,
trustee, partner or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest.

(b) Violation of this statute is a general misdemeanor.

(c) The Department of Human Resources shall annually identify and designate by rule or regulation those positions which are filled by State or county officers or employees who are responsible for the expenditure of substantial amounts of monies under the State medical assistance plan.

Sec. 2. This act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 25th day of June, 1981.

H. B. 1004

CHAPTER 680

AN ACT TO CLARIFY THE SCOPE OF JUDICIAL REVIEW OF AN ADVISORY DECISION OF THE STATE PERSONNEL COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 126-37 is amended by adding the following sentence at the end:

"An action brought in superior court by an employee who is dissatisfied with an advisory decision of the State Personnel Commission or with the action taken by the local appointing authority pursuant to the decision shall be heard upon the record and not as a trial de novo."

Sec. 2. This act is effective upon ratification and applies to actions commenced on or after that date.

In the General Assembly read three times and ratified, this the 25th day of June, 1981.

H. B. 1030

CHAPTER 681

AN ACT TO AUTHORIZE CONTROLLED HARVEST OF ANTLERLESS DEER IN AREAS OF OVERPOPULATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-291.2 is hereby amended by adding at the end thereof a new subsection (e) to read as follows:

"(e) Upon application of any landholder or agent of a landholder accompanied by a fee of fifty dollars ($50.00), the Executive Director may require a survey of the deer population on the land of such landholder. If as a result of the survey it is determined that there is an overpopulation of deer in relation to the carrying capacity of the land, that the herd is substantially dependent on such land for its food and cover, and that the imbalance in the deer population is not readily correctable by an either-sex deer season of reasonable length, the Executive Director may issue to such landholder or agent a number of special antlerless deer tags that in the judgment of the Executive Director is sufficient to correct or alleviate the population imbalance. Subject to applicable hunting license requirements and bag, possession and season limits, the special deer tags may be used by any person or persons selected by the landholder or his agent as authority to take antlerless deer, including male deer with 'buttons' or spikes not readily visible, on the tract of land concerned during such period of time as shall be prescribed by the Executive Director beginning after November 1 and

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ending no later than the close of the male deer season in the locality. Each antlerless deer killed shall be affixed immediately with a special antlerless deer tag in addition to the required big game tag, and shall be reported immediately in the wildlife cooperator tagging book supplied with the special antlerless deer tags. This tagging book and any unused tags shall be returned to the Commission within 15 days of the close of the season. Each such deer shall count as part of the daily bag, possession, and season limits of the person taking the deer.’’

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 25th day of June, 1981.

H. B. 1077 CHAPTER 682
AN ACT TO MAKE VARIOUS TECHNICAL AMENDMENTS TO THE GENERAL STATUTES AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-246 is amended on line 6 by deleting the citation “Article 5” and inserting in lieu thereof the citation “Article 5A”.

Sec. 2. G.S. 11-7.1(a)(1) is amended on line 2 after the words “retired justice” by adding the words “or judge”.

Sec. 3. G.S. 14-190.2(c) is amended on lines 5 and 7 by deleting the word “solicitor” and inserting in lieu thereof the words “district attorney”.

Sec. 4. G.S. 14-190.2(d) is amended on line 1 by deleting the word “solicitor” and inserting in lieu thereof the words “district attorney”.

Sec. 5. G.S. 15-166 is amended on line 2 by deleting both the words “and of” and the word “a”.

Sec. 6. G.S. 18A-20(c) is amended on line 6 by deleting the word “Workmen’s” and inserting in lieu thereof the word “Workers”.

Sec. 7. G.S. 20-37.6(e)(4) is amended on line 3 by deleting the citation “20-37.6(e)” and inserting in lieu thereof the citation “20-37.6(d)”.

Sec. 8. G.S. 28C-5 is amended on line 3 by deleting the following “G.S. 1-585 through 1-592” and inserting in lieu thereof the following “Rules of Civil Procedure”.

Sec. 9. G.S. 44A-2(e) is amended on line 13 by deleting the citation “G.S. 44A-4(d)” and inserting in lieu thereof “G.S. 44A-4(e)”.

Sec. 10. G.S. 45-17.31(a) is amended on lines 6 and 10 by deleting the citation “G.S. 105-408” and inserting in lieu thereof the citation “G.S. 105-385”.

Sec. 11. G.S. 47B-2(b) is hereby revised to read as follows:

“(b) A person has an estate in real property of record for 30 years or more when the public records disclose a title transaction affecting the title to the real property which has been of record for not less than 30 years purporting to create such estate either in:

(1) The person claiming such estate; or

(2) Some other person from whom, by one or more title transactions, such estate has passed to the person claiming such estate;

with nothing appearing of record, in either case, purporting to divest such claimant of the estate claimed.”
Sec. 12. G.S. 50-13.7(b) is amended on line 8 by deleting the word "support" and inserting in lieu thereof the word "custody".

Sec. 13. G.S. 55A-57 is amended on line 8 by deleting the words "University of North Carolina" and inserting in lieu thereof the words "Escheat Fund".

Sec. 14. G.S. 78A-28(j), as the same appears in the 1980 Interim Supplement of the General Statutes, is amended on line 1 by deleting the citation "subsection (j)" and inserting in lieu thereof the citation "subsection (b)"

Sec. 15. G.S. 93A-6, as the same appears in the 1979 Cumulative Supplement to Volume 2C, is amended in subdivision (a1)(2) on line 3 by deleting the word "or" and inserting in lieu thereof the word "of"; and is further amended by adding a new subsection (d) to read as follows:

"(d) In all proceedings under this section for the revocation or suspension of licenses, the provisions of Chapter 150A of the General Statutes shall be applicable."

Sec. 16. G.S. 105-130.22 is amended on lines 5, 9, and 18 by deleting the citation "(11X)" and inserting in lieu thereof the citation "(11x)".

Sec. 17. G.S. 105-151.1 is amended on lines 5, 9, and 18 by deleting the citation "(11X)" and inserting in lieu thereof the citation "(11x)".

Sec. 18. G.S. 105-199 is amended in the last line of the third paragraph by inserting before the word "business" the word "a".

Sec. 19. G.S. 136-18(3), as the same appears in the 1979 Cumulative Supplement to Volume 3B, is amended on lines 3 through 7 by deleting the following:

"Provided, that when any person, firm or corporation owning a deposit of sand, gravel or other material, necessary, for the construction of the system of State highways provided herein, has entered into a contract to furnish the Department of Transportation, either by gift, purchase, or condemnation:"

Sec. 20. G.S. 160A-50(h) is amended in line 2 by deleting the words "Supreme Court" and inserting in lieu thereof the words "Court of Appeals"; and is further amended on line 6 by deleting the words "Supreme Court" and inserting in lieu thereof the words "appellate division".

Sec. 21. G.S. 160A-50(i) is amended in line 2 by deleting the words "superior or Supreme Court" and inserting in lieu thereof the words "superior court or Court of Appeals"; and is further amended on line 5 by deleting the words "superior or Supreme Court" and inserting in lieu thereof the words "superior court or appellate division".

Sec. 22. Chapter 381 of the 1981 Session Laws is amended by deleting the reference "G.S. 115-146" and substituting the reference "G.S. 115C-390"

Sec. 23. G.S. 115C-444(a), as enacted by Chapter 423 of the 1981 Session Laws, is amended by deleting the period at the end of the subsection and adding a semicolon and the following:

"however, public monies may be deposited in official depositaries in Negotiable Order of Withdrawal (NOW) accounts."

Sec. 24. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 25th day of June, 1981.

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AN ACT TO REWRITE THE CRIMINAL ABANDONMENT AND NONSUPPORT AND BASTARDY STATUTES TO ELIMINATE SEX DISCRIMINATION IN THE DUTY OF SUPPORT, AND TO CONSOLIDATE REPETITIVE STATUTES AND REMOVE SURPLUSAGE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-322 is rewritten to read as follows:

"§ 14-322. Abandonment and failure to support spouse and children.—(a) For purposes of this Article:

(1) ‘Supporting spouse’ means a spouse, whether husband or wife, upon whom the other spouse is actually substantially dependent or from whom such other spouse is substantially in need of maintenance and support.

(2) ‘Dependent spouse’ means a spouse, whether husband or wife, who is actually substantially dependent upon the other spouse for his or her maintenance and support or is substantially in need of maintenance and support from the other spouse.

(b) Any supporting spouse who shall willfully abandon a dependent spouse without providing that spouse with adequate support shall be guilty of a misdemeanor and upon conviction shall be punished according to subsection (f).

(c) Any supporting spouse who, while living with a dependent spouse, shall willfully neglect to provide adequate support for that dependent spouse shall be guilty of a misdemeanor and upon conviction shall be punished according to subsection (f).

(d) Any parent who shall willfully neglect or refuse to provide adequate support for that parent’s child, whether natural or adopted, and whether or not the parent abandons the child, shall be guilty of a misdemeanor and upon conviction shall be punished according to subsection (f). Willful neglect or refusal to provide adequate support of a child shall constitute a continuing offense and shall not be barred by any statute of limitations until the youngest living child of the parent shall reach the age of 18 years.

(e) Upon conviction for an offense under this section, the court may make such order as will best provide for the support, as far as may be necessary, of the abandoned spouse or child, or both, from the property or labor of the defendant.

(f) A first offense under this section shall be punishable by a fine not exceeding five hundred dollars ($500.00), or by imprisonment for not more than six months, or both. A second or subsequent offense shall be a misdemeanor punishable by fine, or by imprisonment for not more than two years, or both."

Sec. 2. G.S. 14-325.1 is rewritten to read as follows:

"§ 14-325.1. When offense of failure to support child deemed committed in State.—The offense of willful neglect or refusal of a parent to support and maintain a child, and the offense of willful neglect or refusal to support and maintain one’s illegitimate child, shall be deemed to have been committed in the State of North Carolina whenever the child is living in North Carolina at the time of such willful neglect or refusal to support and maintain such child.”

Sec. 3. G.S. 14-323, G.S. 14-324, G.S. 14-325, and G.S. 14-326 are repealed.

Sec. 4. This act shall become effective July 1, 1981.
CHAPTER 683    Session Laws—1981

In the General Assembly read three times and ratified, this the 25th day of June, 1981.

H. B. 1132    CHAPTER 684
AN ACT TO PROHIBIT DANGEROUS WEAPONS AT PARADES, FUNERAL PROCESSIONS, PICKET LINES, AND DEMONSTRATIONS.

The General Assembly of North Carolina enacts:

Section 1. A new section is added to Chapter 14 of the General Statutes to read:

"§ 14-277.2. Weapons at parades, etc., prohibited.—(a) It shall be unlawful for any person participating in, affiliated with, or present as a spectator at any parade, funeral procession, picket line, or demonstration upon any public place owned or under the control of the State or any of its political subdivisions to willfully or intentionally possess or have immediate access to any dangerous weapon. Violation of this subsection shall be a misdemeanor. It shall be presumed that any rifle or gun carried on a rack in a pickup truck does not violate the terms of this act.

(b) For the purposes of this section the term 'dangerous weapon' shall include those weapons specified in G.S. 14-269, G.S. 14-269.2, G.S. 14-284.1, or G.S. 14-288.8 or any other object capable of inflicting serious bodily injury or death when used as a weapon.

(c) The provisions of this section shall not apply to persons authorized by State or federal law to carry dangerous weapons in the performance of their duties or to any person who obtains a permit to carry a dangerous weapon at a parade, funeral procession, picket line, or demonstration from the sheriff or police chief, whichever is appropriate, of the locality where such parade, funeral procession, picket line, or demonstration is to take place."

Sec. 2. This act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 25th day of June, 1981.

H. B. 1174    CHAPTER 685
AN ACT TO AMEND CERTAIN PROVISIONS OF CHAPTER 159 RELATIVE TO LOCAL GOVERNMENT BUDGET AND FISCAL CONTROL MATTERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 159-7(b)(8) is rewritten to read:

"'Fund' is a fiscal and accounting entity with a self-balancing set of accounts recording cash and other resources, together with all related liabilities and residual equities or balances, and changes therein, for the purpose of carrying on specific activities or attaining certain objectives in accordance with special regulations, restrictions, or limitations."

Sec. 2. G.S. 159-8(a) is amended on line 7 by adding after the word "revenues" the words "arising from cash receipts".

Sec. 3. G.S. 159-13(b)(7) is rewritten to read:

"Estimated revenues shall include only those revenues reasonably expected to be realized in the budget year, including amounts to be realized from collections of taxes levied in prior fiscal years."
Sec. 4. G.S. 159-13(b)(12) is repealed.

Sec. 5. G.S. 159-13(b)(16) is amended on line 4 after the word “revenues” by adding the words “arising from cash receipts”.

Sec. 6. G.S. 159-26(b)(5) is rewritten to read: “Internal service funds.”

Sec. 7. The last paragraph of G.S. 159-26(b) is rewritten to read: “In addition, each unit or public authority shall establish and maintain any other funds required by other statutes or by State or federal regulations.”

Sec. 8. G.S. 159-34(a) is rewritten to read: “Each unit of local government and public authority shall have its accounts audited as soon as possible after the close of each fiscal year by a certified public accountant or by an accountant certified by the commission as qualified to audit local government accounts. The auditor shall be selected by and shall report directly to the governing board. The audit contract or agreement shall (i) be in writing, (ii) include the entire entity in the scope of the audit, except that an audit for purposes other than the annual audit required by this section should include an accurate description of the scope of the audit, (iii) require that a typewritten or printed report on the audit be prepared as set forth herein, (iv) include all of its terms and conditions, and (v) be submitted to the secretary for his approval as to form, terms, conditions, and compliance with the rules of the commission. As a minimum, the required report shall include the financial statements prepared in accordance with generally accepted accounting principles, all disclosures in the public interest required by law, and the auditor’s opinion and comments relating to financial statements. The audit shall be performed in conformity with general accepted auditing standards. The finance officer shall file a copy of the audit report with the secretary, and shall submit all bills or claims for audit fees and costs to the secretary for his approval. Before giving his approval the secretary shall determine that the audit and audit report substantially conform to the requirements of this section. It shall be unlawful for any unit of local government or public authority to pay or permit the payment of such bills or claims without this approval. Each officer and employee of the local government or local public authority having custody of public money or responsibility for keeping records of public financial or fiscal affairs shall produce all books and records requested by the auditor and shall divulge such information relating to fiscal affairs as he may request. If any member of a governing board or any other public officer or employee shall conceal, falsify, or refuse to deliver or divulge any books, records, or information, with an attempt thereby to mislead the auditor or impede or interfere with the audit, he is guilty of a misdemeanor and upon conviction thereof may be fined not more than one thousand dollars ($1,000), or imprisoned for not more than one year, or both, in the discretion of the court.”

Sec. 9. G.S. 159-34(b) is amended in the second sentence thereof by adding after the word “regulations” the words “may consider the needs of the public for adequate information and the performance that the auditor has demonstrated in the past, and”.

Sec. 10. G.S. 159-13(b)(3) is amended by deleting the words “Chapter 108”, and inserting in lieu thereof the words “Chapter 108A”.

Sec. 11. This act shall become effective July 1, 1981, except that Section 10 shall become effective October 1, 1981.
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In the General Assembly read three times and ratified, this the 25th day of June, 1981.

S. B. 62   CHAPTER 686

AN ACT TO ABDOLISH THE DISTINCTION BETWEEN ACCESSORIES BEFORE THE FACT AND PRINCIPALS AND TO MAKE ACCESSORIES BEFORE THE FACT PUNISHABLE AS PRINCIPAL FELONS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 14 of the General Statutes is amended by adding a new section to read as follows:

"§ 14-5.2. Accessory before fact punishable as principal felon.—All distinctions between accessories before the fact and principals to the commission of a felony are abolished. Every person who heretofore would have been guilty as an accessory before the fact to any felony shall be guilty and punishable as a principal to that felony. However, if a person who heretofore would have been guilty and punishable as an accessory before the fact is convicted of a capital felony, and the jury finds that his conviction was based solely on the uncorroborated testimony of one or more principals, co-conspirators, or accessories to the crime, he shall be guilty of a Class B felony."

Sec. 2. G.S. 14-5, G.S. 14-5.1, and G.S. 14-6 are repealed.

Sec. 3. This act does not apply to any offense committed before the effective date of this act, and any such offense is punishable under the laws in effect at the time such offense was committed.

Sec. 4. This act shall become effective on July 1, 1981, and is applicable to all offenses committed on and after that date.

In the General Assembly read three times and ratified, this the 25th day of June, 1981.

S. B. 144   CHAPTER 687

AN ACT TO RAISE THE MONETARY LIMITS FOR REQUIRING AN ARCHITECT OR ENGINEER.

The General Assembly of North Carolina enacts:

Section 1. G.S. 133-1.1, as the same appears in the 1979 Cumulative Supplement to Volume 3B of the General Statutes, is hereby amended by rewriting subsections (a) and (d) to read as follows:

"§ 133-1.1. Certain buildings involving public funds to be designed, etc., by architect or engineer.—(a) In the interest of public health, safety and economy, every officer, board, department, or commission charged with the duty of approving plans and specifications or awarding or entering into contracts involving the expenditure of public funds in excess of one hundred thousand dollars ($100,000) for the repair of public buildings where such repair does not include major structural change, or in excess of forty-five thousand dollars ($45,000) for the construction of, or additions to, public buildings or State-owned and operated utilities shall require that such plans and specifications be prepared by a registered architect, in accordance with the provisions of Chapter 83 of the General Statutes, or by a registered engineer, in accordance with the provisions of Chapter 89C of the General Statutes, or by both architect and engineer, particularly qualified by training and experience for the type of work..."
involved, and that the North Carolina seal of such architect or engineer together with the name and address of such architect or engineer, or both, be placed on all such plans and specifications.

(d) On repair projects involving the expenditures of public funds in an amount of one hundred thousand dollars ($100,000), or less, or on construction or addition projects involving the expenditures of public funds in an amount of forty-five thousand dollars ($45,000), or less, and on which no registered architect or engineer is employed, the governing board or awarding authority shall require a certificate of compliance with the State Building Code from the city or county inspector for the specific trade or trades involved or from a registered architect or engineer, except that the provisions of this subsection shall not apply on projects wherein plans and specifications are approved by the Department of Administration, Division of State Construction, and the completed project is inspected by the Division of State Construction."

Sec. 2. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 25th day of June, 1981.

S. B. 250 CHAPTER 688
AN ACT TO PROVIDE FOR A MORE EFFECTIVE REVIEW OF ADMINISTRATIVE RULES, AND TO MAKE PERMANENT THE LEGISLATIVE RESEARCH COMMISSION'S ADMINISTRATIVE RULES REVIEW COMMITTEE.

The General Assembly of North Carolina enacts:

Section 1. The language of G.S. 120-30.24(5) d. is deleted and the following language is inserted:
"d. orders establishing or fixing rates or tariffs; or
 e. rules, by the Department of Transportation, relating to traffic sign ordinances, and road and bridge weight limits."

Sec. 2. Subdivisions 5 and 6 of G.S. 120-30.17 are repealed.

Sec. 3. G.S. 120-30.25(a) is amended in its second sentence by deleting the words "and by the Commission".

Sec. 4. G.S. 120-30.26 is rewritten to read:
"§ 120-30.26. Administrative Rules Review Committee.—There is created a permanent committee of the Legislative Research Commission to be known as the Administrative Rules Review Committee. The Committee is composed of 10 members, five representatives appointed by the Commission cochairman from the House of Representatives, and five senators appointed by the Commission cochairman from the Senate. On October 1, 1977, and biennially thereafter, the cochairmen of the Commission shall appoint the Committee members from the membership of the General Assembly. The members serve for terms of two years, or until they cease to be members of the General Assembly, whichever occurs first. The members so appointed shall elect two of their number to serve as cochairmen. Any vacancy that occurs in the membership of the Committee for any reason other than the expiration of a term shall be filled for the remainder of the unexpired term by appointment of a member of the General Assembly by the authority making the original appointment."

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Sec. 5. G.S. 120-30.27 is amended by deleting the second sentence which follows:

"A quorum of the Committee shall consist of the chairman and three other members of the Committee or a majority of the Committee, whichever is fewer."

and inserting in its place the following sentence:

"A quorum of the Committee consists of a cochairman and four other members of the Committee or a majority of the Committee, whichever is fewer."

Sec. 6. G.S. 120-30.28 is rewritten to read as follows:

"§ 120-30.28. Review of rules.—(a) After a rule is filed with the Director, he shall submit it to the Committee which may determine whether or not the agency acted within its statutory authority in promulgating the rule. The Committee shall review a rule submitted to it by the Director not later than the last day of the first calendar month following the filing of the rule with the Director. The Committee, by a majority vote of the members present and voting, may extend the time for review of a rule by 60 days to obtain additional information on the rule. The Director shall file notice of the extension of time for review of a rule with the agency and the Attorney General. Upon that filing, the effectiveness of the rule is delayed for a 60-day period.

(b) If the Committee finds that an agency did not act within its statutory authority in promulgating a rule or a part of the rule, the Committee, pending review by the Governor or the Council of State pursuant to this section, shall object and delay the effectiveness of the rule or the part of the rule in which the Committee finds that the agency exceeded its statutory authority. The Director of Research shall transmit to the Governor, the President of the Senate, the cochairmen of the Legislative Research Commission, the Attorney General, and the agency a written report of the objection and delay of the rule or its part and the reasons for the delay. The delay of the effectiveness of the rule or its part is effective when the Attorney General receives the written report transmitted by the Director of Research. A rule or its part that is delayed is not 'effective' as defined in G.S. 150A-2(2a), unless a written order is received by the Attorney General ending the delay pursuant to subsection (f).

(c) Within 30 days after receipt of the Committee's written report, an agency shall either amend or repeal the rule to cure the defects cited as reasons for the Committee's objection and delay or return the rule unamended to the Committee.

(d) While the effectiveness of a rule or its part is delayed, the agency which has promulgated it may not adopt another rule which has substantially identical provisions to those for which the Committee delayed the effectiveness of the original rule or part of rule. To cure the defects cited as reasons for the Committee's delay, the agency may amend or repeal that rule without complying with the notice and hearing requirements contained in G.S. 150A-12. The curative rule is effective upon its filing with the Attorney General.

(e) The filing of an amendment to a rule places the entire rule before the Committee for its review.

(f) If an agency does not amend or repeal a delayed rule to cure the defects cited as reasons for the Committee's objection and delay, the Committee shall transmit to the Governor and the cochairmen of the Legislative Research Commission, the written report of the objection and delay of the rule.
containing the reasons for the objection and delay, and the notation that the agency returned the rule unamended to the Committee or failed to return the rule within the time specified in subsection (c).

(1) If the rule whose effectiveness was delayed was promulgated by an agency of the Department of
a. Administration
b. Commerce
c. Correction
d. Crime Control and Public Safety
e. Cultural Resources
f. Human Resources
g. Natural Resources and Community Development
h. Revenue, or
i. Transportation
the Governor, within 30 days of receipt may disagree with the Committee's position and end the delay.

(2) If the rule whose effectiveness was delayed was promulgated by any other agency, the Council of State by majority vote, within 45 days of receipt of the Committee's report by the Governor, may disagree with the Committee's position and end the delay. Upon receipt of the Committee's report by the Governor, he shall transmit a copy of that report to the other Council of State members.

If the Governor or the Council of State disagrees with the Committee's position, the Governor, acting either for himself or for the Council of State, as the case may be, shall send to the Attorney General, the agency, and to the Committee a written order ending the delay of the effectiveness of the rule. The delay of the effectiveness of the rule is ended upon receipt by the Attorney General of the Governor's written order.

Notwithstanding any other provision of law, if the Governor or the Council of State, as the case may be, fails to end the delay of the rule, within the applicable time specified in this subsection after receipt of the Committee's report, the rule or its part is automatically repealed.

(g) When a rule or its part has been delayed pursuant to subsection (b) and the Governor or the Council of State, as the case may be, disagrees with the Committee's position and ends the delay, the Committee shall submit a bill to repeal the delayed rule or its part to the General Assembly if then in session or, if not in session, to it the next regular session. The Committee may consider and recommend to the General Assembly any legislation it believes would improve administrative procedure and practices in this State. A bill submitted to the General Assembly under this subsection is eligible for consideration in that part of the regular session to which the bill is submitted."

Sec. 7. A new section is added to Article 6C of Chapter 120 of the General Statutes to read as follows:

"§ 120-30.29A. Actions on rules.—(a) The Committee may institute an action in the Superior Court of Wake County for a declaratory judgment on the issue of whether a rule that has been delayed and that delay has been ended pursuant to this Article is neither valid nor within the statutory authority of the agency.

The agency whose rule has been objected to and delayed shall be notified of the commencement of the action by service process pursuant to G.S. 1A-1, Rule 4. The Committee shall have standing on behalf of the General Assembly to
appear in any action authorized by this section or any appeals therefrom. Notwithstanding any other provision of law, the Committee may direct any licensed attorney on the staff of the General Assembly, or contract with other counsel, to represent the Committee in the action.

(b) In any action in which a rule is determinative of the outcome and in which the rule was objected to by the Committee, the agency must prove that the rule is valid as defined in G.S. 150A-2(9) and within the statutory authority of the agency.

The clerk of the superior court shall file a copy of the order of the court with the Attorney General.”

Sec. 8. G.S. 120-30.29, 120-30.30, 120-30.31, and 120-30.33 are repealed.

Sec. 9. Subsection (a) of G.S. 120-30.35 is rewritten to read:

“(a) Notwithstanding the time limitation on review of rules contained in G.S. 120-30.28(a), the cochairmen of the Commission may at any time call a public hearing before the Committee on any rule or part of rule upon the recommendation of the Committee or upon the motion of any member of the Commission. Within 60 days after the public hearing, the Committee may find that the agency did not act within its statutory authority in promulgating the rule or its part and delay the continued effectiveness of the rule or its part in accordance with subsections b, c, d, e, f, and g of G.S. 120-30.28.”

Sec. 10. Subsection (e) of G.S. 120-30.35 is amended by deleting therefrom the words “and the Commission.”

Sec. 11. A new section is added to Article 6C of Chapter 120 of the General Statutes to read as follows:

“§ 120-30.36. Failure to object and delay; inadmissibility into evidence.—(a) The failure of the Committee to object and delay the effectiveness of a rule or its part shall not be deemed to be approval of the statutory authority of the rule or its part by the Committee, Commission or the legislative branch.

(b) Evidence of the Committee’s failure to object and delay the effectiveness of the rule or its part shall be inadmissible in all civil and criminal trials or other proceedings before courts, administrative agencies, or other tribunals.”

Sec. 12. G.S. 150A-13 is rewritten to read as follows:

“§ 150A-13. Temporary rules.—If an agency determines in writing that adherence to the notice and hearing requirements of this Article would be contrary to the public interest and that the public health, safety or welfare requires immediate adoption, amendment or repeal of a rule, the agency may adopt, amend or repeal a temporary rule without prior notice or hearing or upon any abbreviated notice or hearing the agency finds practicable. The agency must accompany its rule filing with the Attorney General and the Legislative Research Commission’s Administrative Rules Review Committee with the agency’s written certification of the finding of need for the temporary rule, together with the reasons for that finding.

This rule may be effective for a period of not longer than 120 days. An agency adopting a temporary rule shall begin normal rule-making procedures on the rule under this Article at the same time the temporary rule is adopted. The adoption of a rule under this section does not subject the effectiveness of the temporary rule to delay by the Administrative Rules Review Committee pursuant to Article 6C of Chapter 120 of the General Statutes.”
Sec. 13. G.S. 150A-59(a) is rewritten to read as follows:

"(a) Rules adopted by an agency on or after February 1, 1976, shall be filed with the Attorney General. No rule, except temporary rules adopted under the provisions of G.S. 150A-13, shall become effective earlier than the first day of the second calendar month after that filing. The effectiveness of any rule except a temporary rule under the provisions of G.S. 150A-13 may be delayed by the Legislative Research Commission's Administrative Rules Review Committee pursuant to Article 6C of Chapter 120 of the General Statutes."

Sec. 14. The last sentence of subsection (5) of G.S. 150A-60 is rewritten to read as follows:

"This subsection does not apply to rules adopted by the Industrial Commission, the Utilities Commission, or the Department of Transportation relating to traffic sign ordinances, and road and bridge weight limits."

Sec. 15. A new section is added to Article 5 of Chapter 150A of the General Statutes to read as follows:

"§ 150A-63.1. Administrative Rules Review Committee reports.—The Attorney General shall retain any reports of the Legislative Research Commission's Administrative Rules Review Committee objecting to the rule and delaying the effectiveness of the rule, and any order ending the delay. He shall append to any compilation, publication, or summation of that rule a notation that it has been objected to and delayed pursuant to Article 6C of Chapter 120 of the General Statutes and, where applicable, that the delay has been ended."

Sec. 16. Notwithstanding the provisions of G.S. 120-30.26, the new appointment authorized by this act shall be made by the cochairmen of the Legislative Research Commission not later than July 15, 1981. The term of office of a new appointee shall be from time of appointment until October 1, 1981, or until the appointee ceases to be a member of the General Assembly, whichever occurs first.

Sec. 17. Rules that were filed, but whose review periods have not expired, under the procedures in effect prior to the effective date of this act shall be reviewed and these rules or their parts may be delayed under the provisions of this act prior to December 1, 1981. The continued effectiveness of rules that have been reviewed and that have been objected to by the Administrative Rules Review Committee or the Legislative Research Commission, or both, under the procedures in effect prior to the effective date of this act and that have not been amended or repealed by the appropriate agency in accordance with the objections of the Committee or the Commission, may be delayed by the Committee not later than December 1, 1981, under the provisions of G.S. 120-30.28(b), (c), (d), (e), (f) and (g).

Sec. 18. Section 10 of Chapter 915 of the 1977 Session Laws, as amended by Section 2 of Chapter 1030 of the 1979 Session Laws, is rewritten to read as follows:

"Sec. 10. This act shall become effective on October 1, 1977."

Sec. 19. The second sentence of G.S. 120-30.11 is rewritten to read:

"The term of office shall begin on the day of appointment, and shall end on the date when the next biennial session of the General Assembly convenes in the following odd-numbered calendar year."

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Sec. 20. G.S. 143B-14(b) is amended after the words “the Executive Organization Act of 1973” and before the words “or in G.S. 150A-11(4)” by inserting the following “, in G.S. 120-30.28,“.

Sec. 21. If any provisions of this act or the application thereof to any circumstances are held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 22. This section and Sections 1, 4, 5, 14, 16, 18, and 19 of this act shall become effective July 1, 1981; all remaining sections of this act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 25th day of June, 1981.

S. B. 511  CHAPTER 689

AN ACT TO APPLY THE SAME STANDARD FOR DISABILITY RETIREMENT AS FOR REEXAMINATION IN THE NORTH CAROLINA LOCAL GOVERNMENTAL RETIREMENT SYSTEM, THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM AND THE UNIFORM JUDICIAL RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 128-27(c) is amended by adding before the period in the first paragraph the words:

“ Provided further the medical board shall determine if the member is able to engage in gainful employment and, if so, the member may still be retired and the disability retirement allowance as a result thereof shall be reduced as in subsection (e) below”.

Sec. 2. G.S. 135-5(c) is amended by adding before the period in the first paragraph the words:

“ Provided further the medical board shall determine if the member is able to engage in gainful employment and, if so, the member may still be retired and the disability retirement allowance as a result thereof shall be reduced as in subsection (e) below”.

Sec. 3. G.S. 135-59 is amended by adding before the period in the first paragraph the words:

“and, provided further, the medical board shall determine if the member is able to engage in gainful employment and, if so, the member shall still be retired and the disability retirement allowance as a result thereof shall be reduced as in G.S. 135-60(d)”.

Sec. 4. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 25th day of June, 1981.

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AN ACT TO INCREASE THE GASOLINE TAX, THE SPECIAL FUELS TAX, AND THE TAX ON CARRIERS USING FUELS PURCHASED OUTSIDE THE STATE; TO INCREASE POWELL BILL FUNDS FOR MUNICIPALITIES; TO PROVIDE FOR CONSTRUCTION OF SECONDARY ROADS; TO TRANSFER SALES AND USE TAXES ON MOTOR VEHICLE PARTS, ACCESSORIES AND LUBRICANTS TO THE HIGHWAY FUND; TO INCREASE MOTOR VEHICLES FEES; TO INCREASE THE REGISTRATION FEES ON PROPERTY HAULING VEHICLES; AND TO ESTABLISH FEES FOR OVERSIZE AND OVERWEIGHT VEHICLES.

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—IV. PROPERTY HAULING VEHICLES REGISTRATION FEES
—V. OVERSIZE AND OVERWEIGHT VEHICLE FEES
—VI. EFFECTIVE DATES

The General Assembly of North Carolina enacts:

—I. GASOLINE AND FUELS TAX INCREASE/POWELL BILL INCREASE/SECONDARY ROADS APPROPRIATION

Section 1. Article 36 of Subchapter V of Chapter 105 of the General Statutes entitled “Gasoline Tax” is hereby amended as follows:

(a) G.S. 105-434, as the same appears in the 1979 Replacement Volume 2D of the General Statutes, is amended by striking the words and figures “nine cents (9¢)” in lines 1 and 2 and inserting in lieu thereof the words and figures “twelve cents (12¢)”; 

(b) G.S. 105-435, as the same appears in the 1979 Replacement Volume 2D of the General Statutes, is amended by striking the words and figures “nine cents (9¢)” in line 5 and inserting in lieu thereof the words and figures “twelve cents (12¢)”; 

(c) G.S. 105-436.1(a) is rewritten to read as follows:

“Sale, distribution, or use of a blend of motor fuel and a minimum of ten percent (10%) anhydrous ethanol is subject to the tax described in G.S. 105-434 except:

(1) from July 1, 1981, through June 30, 1982, the tax is nine cents (9¢); 
(2) from July 1, 1982, through June 30, 1983, the tax is ten cents (10¢); 
(3) from July 1, 1983, through June 30, 1984, the tax is eleven cents (11¢).
Quarterly refunds and rebates allowed under this Article for the purchase of such a blend shall not exceed the motor fuels tax on that blend reduced by one cent (1¢). Annual refunds and rebates allowed under this Article for the purchase of such a blend shall be at the following rates: for the year ending December 31, 1981, six cents (6¢) per gallon; for the year ending December 31, 1982, eight and one-half cents (8-1/2¢) per gallon; for the year ending December
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31, 1983, nine and one-half cents (9-1/2¢) per gallon; for the year ending December 31, 1984, ten and one-half cents (10-1/2¢) per gallon; for subsequent years ending December 31, eleven cents (11¢) per gallon."

(d) G.S. 105-446, as the same appears in the 1979 Replacement Volume 2D of the General Statutes, is amended by deleting from the first sentence thereof the words and figures "seven cents (7¢) per gallon for the year ending December 31, 1969, and at the rate of eight cents (8¢)" and inserting in lieu thereof the words and figures "nine and one-half cents (9-1/2¢) per gallon for the year ending December 31, 1981, and at the rate of eleven cents (11¢)"

(e) The first sentence of G.S. 105-446.1 is amended by deleting the phrase "eight cents (8¢)" and inserting in lieu thereof the phrase "eleven cents (11¢)"

(f) The first sentence of G.S. 105-446.3(a) is amended by deleting the phrase "eight cents (8¢)" and inserting in lieu thereof the phrase "eleven cents (11¢)

(g) G.S. 105-446.5(a), as the same appears in the 1979 Replacement Volume 2D of the General Statutes, is amended by striking from the first sentence thereof the words "reimbursed at the rate of thirty-three and one-third percent (33-1/3%) of eight cents (8¢) per gallon of the tax levied under this Article on all motor fuels used in the operation of the truck and concrete mixer upon the following conditions and in the following manner:" and inserting in lieu thereof the following:

"entitled to reimbursement of the tax levied under this Article. For the year ending December 31, 1981, reimbursement shall be at the rate of thirty-three and one-third percent (33-1/3%) of nine and one-half cents (9-1/2¢) per gallon. For subsequent years ending December 31 reimbursement shall be at the rate of thirty-three and one-third percent (33-1/3%) of eleven cents (11¢) per gallon. Reimbursement shall be made only upon the following conditions and in the following manner:

(h) G.S. 105-449, as the same appears in the 1979 Replacement Volume 2D of the General Statutes, is amended by striking the words and figures "nine cents (9¢)" wherever they appear and inserting in lieu thereof the words and figures "twelve cents (12¢)"

(i) G.S. 105-449.01 is rewritten to read as follows:

"§ 105-449.01. July 1, 1981, inventory.—Every distributor of gasoline, both at wholesale and at retail, who shall have on hand or in his possession gasoline on which the nine cents (9¢) per gallon State tax has been paid or accrued shall take a true inventory of all such gasoline on hand or in his possession as of 12:01 a.m., July 1, 1981, and shall on or before July 20, 1981, report to the Secretary of Revenue the amount of such gasoline and shall remit to the Secretary an additional tax of three cents (3¢) per gallon. The report required shall be in such form as may be prescribed by the Secretary.

Every distributor of a blend of motor fuel and a minimum of ten percent (10%) anhydrous ethanol, both at wholesale and at retail, who shall have on hand or in his possession such blend of fuel and ethanol on which the five cents (5¢) per gallon State tax has been paid or accrued, shall take a true inventory of all such blend of fuel and ethanol on hand or in his possession as of 12:01 a.m., July 1, 1981, and shall on or before July 20, 1981, report to the Secretary of Revenue the amount of such blend of fuel and ethanol and shall remit to the Secretary an additional tax of three cents (3¢) per gallon. The report required shall be in such form as may be prescribed by the Secretary."
Sec. 2. Article 36A of Subchapter V of Chapter 105 of the General Statutes entitled “Special Fuels Tax” is hereby amended as follows:

(a) G.S. 105-449.16(a), as the same appears in the 1980 Interim Supplement to the General Statutes, is amended by striking the words and figures “nine cents (9¢)” wherever they appear and inserting in lieu thereof the words and figures “twelve cents (12¢)”; 

(b) G.S. 105-449.16(b) is rewritten as follows:

“Sale, distribution, or use of a blend of gasoline or fuel and a minimum of ten percent (10%) anhydrous ethanol, which is not subject to taxation under Article 36 of this Subchapter is subject to the tax described in subsection (a) of this section except:

(1) from July 1, 1981, through June 30, 1982, the tax is nine cents (9¢); 
(2) from July 1, 1982, through June 30, 1983, the tax is ten cents (10¢); 
(3) from July 1, 1983, through June 30, 1984, the tax is eleven cents (11¢);”

(c) G.S. 105-449.19, as the same appears in the 1979 Replacement Volume 2D of the General Statutes, is amended by striking the words and figures “nine cents (9¢)” in line 10 and inserting in lieu thereof the words and figures “twelve cents (12¢)”; 

(d) G.S. 105-449.24, as the same appears in the 1980 Interim Supplement to the General Statutes, is amended by deleting the last sentence thereof and inserting in lieu thereof the following:

“Quarterly refunds and rebates allowed under this Article for the purchase of a blend of gasoline or fuel and a minimum of ten percent (10%) anhydrous ethanol shall not exceed the motor fuels tax on that blend reduced by one cent (1¢). Annual refunds and rebates allowed under this Article for the purchase of such a blend shall be at the following rates: for the year ending December 31, 1981, six cents (6¢) per gallon; for the year ending December 31, 1982, eight and one-half cents (8-1/2¢) per gallon; for the year ending December 31, 1983, nine and one-half cents (9-1/2¢) per gallon; for the year ending December 31, 1984, ten and one-half cents (10-1/2¢) per gallon; for subsequent years ending December 31, eleven cents (11¢) per gallon.”;

(e) G.S. 105-449.30, as the same appears in the 1979 Replacement Volume 2D of the General Statutes, is amended by deleting from the first sentence thereof the words and figures “seven cents (7¢) per gallon for the year ending December 31, 1969, and at the rate of eight cents (8¢)” and inserting in lieu thereof the words and figures “nine and one-half cents (9-1/2¢) per gallon for the year ending December 31, 1981, and at the rate of eleven cents (11¢)”;

(f) G.S. 105-449.36 is rewritten as follows:

“§ 105-449.36. July 1, 1981, inventory.—Every supplier of special fuels and every user-seller who is a retail distributor of special fuels who shall have on hand or in his possession special fuels on which the nine cents (9¢) tax has been paid or accrued shall take a true inventory of all such special fuels on hand or in his possession as of 12:01 a.m., July 1, 1981, and shall on or before July 20, 1981, report to the Secretary of Revenue the amount of such fuels and shall remit to the Secretary an additional tax of three cents (3¢) per gallon. The report required shall be in such form as may be prescribed by the Secretary.”

Sec. 3. Article 36B of Subchapter V of Chapter 105 of the General Statutes entitled “Tax on Carriers Using Fuel Purchased Outside State” is hereby amended as follows:
(a) G.S. 105-449.38, as the same appears in the 1979 Replacement Volume 2D of the General Statutes, is amended by deleting the first sentence thereof and inserting in lieu thereof the following:

"A road tax for the privilege of using the streets and highways of this State is hereby imposed upon every motor carrier on the amount of gasoline or other motor fuel used by such motor carrier in its operations within this State. The tax shall be at the rate of nine cents (9¢) per gallon with respect to fuel used prior to July 1, 1981, and at the rate of twelve cents (12¢) per gallon with respect to fuel used on or after July 1, 1981."

(b) G.S. 105-449.39, as the same appears in the 1980 Interim Supplement to the General Statutes, is amended by deleting the first two sentences of the first paragraph and inserting in lieu thereof the following:

"Every motor carrier subject to the tax hereby imposed shall be entitled to a credit on such tax equivalent to twelve cents (12¢) per gallon on all gasoline or other motor fuels purchased on or after July 1, 1981, by such carrier in this State for use in its operations either within or without this State and upon which gasoline or other motor fuels the tax imposed by the laws of this State has been paid by such carrier. Carriers who have on hand inventory as of 12:01 a.m., July 1, 1981, on which the nine cents (9¢) tax has been paid shall take credit for nine cents (9¢) per gallon on all such gasoline and other motor fuels when filing the report required under G.S. 105-449.45."

Sec. 4. G.S. 136-41.1(a) is hereby amended by deleting the following from the third line: "one cent (1¢)", and inserting in lieu thereof the following: "one and three-eighths cents (1-3/8¢)".

Sec. 5. G.S. 136-44.2A, as it appears in the 1981 Replacement Volume 3B to the General Statutes, is hereby recodified as G.S. 136-44.2B.

Sec. 6. A new G.S. 136-44.2A is enacted to read:

"§ 136-44.2A. Secondary road construction.—There shall be annually allocated out of the State Highway Fund to the Department of Transportation for secondary road construction programs developed pursuant to G.S. 136-44.7 and G.S. 136-44.8, a sum equal to that allocation made under G.S. 136-41.1(a). Such secondary roads allocation shall be made in accordance with the provisions of G.S. 136-44.5."

—II. TRANSFER SALES AND USE TAXES ON MOTOR VEHICLE PARTS, ACCESSORIES AND LUBRICANTS TO THE HIGHWAY FUND

Sec. 7. Article 5 of Chapter 105 of the General Statutes is amended by adding a new section following G.S. 105-164.44 to be designated G.S. 105-164.44A and to read:

"§ 105-164.44A. Tax on motor vehicle parts, accessories, and lubricants; transfer to Highway Fund.—The sales and use tax collected on motor vehicle parts, accessories and lubricants for the fiscal year 1980-81 is estimated to be fifty-nine million dollars ($59,000,000), which amount may be used hereafter to determine the amount of sales and use taxes to be transferred under this section from the General Fund to the Highway Fund.

Sales and use taxes collected on motor vehicle parts, accessories and lubricants may be transferred from the General Fund to the Highway Fund in the following amounts and in the following manner:

(1) On a quarterly basis during the fiscal year ending June 30, 1982, the State Treasurer shall transfer from the General Fund to the Highway Fund that portion of the sum of fifty-nine million dollars ($59,000,000) which equals the

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Treasurer shall estimated amount of new General Fund revenues enacted during the 1981-82 legislative session, not to exceed fifty-nine million dollars ($59,000,000).

(2) On a quarterly basis during the fiscal year ending June 30, 1983, the State Treasurer shall transfer from the General Fund to the Highway Fund that portion of the sum of fifty-nine million dollars ($59,000,000) which equals the annualized amount transferred during the year ending June 30, 1982, plus any annualized estimated new revenues enacted by the 1981-82 legislative session and not previously transferred, plus or minus the percentage of this amount by which the total collections of sales and use tax increased or decreased over the previous year.

(3) On a quarterly basis during each fiscal year beginning on or after July 1, 1983, the State Treasurer shall transfer from the General Fund to the Highway Fund the amount transferred during the year ending June 30, 1983, plus or minus the percentage of that amount by which the total collection of sales or use tax increased or decreased over the previous year.

(4) The quarterly transfers shall be made within 30 days after the end of each quarter.

—III. MOTOR VEHICLES FEES INCREASE

Sec. 8. G.S. 20-7(i), as the same appears in the 1980 Interim Supplement to the General Statutes, is hereby amended by striking the words and figures "four dollars ($4.00)" appearing in lines 1 and 2 and inserting in lieu thereof the words and figures "ten dollars ($10.00)" and by striking the words and figures "ten dollars ($10.00)" appearing in line 3 and inserting in lieu thereof the words and figures "fifteen dollars ($15.00)".

Sec. 9. G.S. 20-7(ii), as the same appears in the 1980 Interim Supplement to the General Statutes, is hereby amended by striking the words and figures "fifteen dollars ($15.00)" appearing in line 3 and inserting in lieu thereof the words and figures "twenty-five dollars ($25.00)".

Sec. 10. G.S. 20-7(i), as the same appears in the 1980 Interim Supplement to the General Statutes, is hereby amended by striking the words and figures "two dollars ($2.00)" appearing in lines 6 and 7 and inserting in lieu thereof the words and figures "four dollars ($4.00)" and by striking the words and figures "three dollars and twenty-five cents ($3.25)" appearing in line 13 and inserting in lieu thereof the words and figures "seven dollars ($7.00)".

Sec. 11. G.S. 20-14, as the same appears in the 1980 Interim Supplement to the General Statutes, is hereby amended by striking the words and figures "one dollar ($1.00)" appearing in lines 3 and 4 and inserting in lieu thereof the words and figures "five dollars ($5.00)".

Sec. 12. G.S. 20-37.7(d), as the same appears in the 1980 Interim Supplement to the General Statutes, is hereby amended by striking the words and figures "one dollar ($1.00)" appearing in lines 2 and 3 and inserting in lieu thereof the words and figures "three dollars ($3.00)".

Sec. 13. G.S. 20-26(c), as the same appears in the 1980 Interim Supplement to the General Statutes, is hereby amended by rewriting the schedule of fees appearing therein to read as follows:

"(1) Limited extract copy of license record, for period up to three years $3.00
(2) Complete extract copy of license record 3.00
(3) Certified true copy of complete license record 6.00."
Sec. 14. G.S. 20-166.1(i), as the same appears in the 1978 Replacement Volume 1C of the General Statutes, is hereby amended by striking the words and figures "two dollars and fifty cents ($2.50)" appearing in line 12 and inserting in lieu thereof the words and figures "four dollars ($4.00)".

Sec. 15. G.S. 20-324, as the same appears in the 1978 Replacement Volume 1C of the General Statutes, is hereby amended by striking the words and figures "twenty-five dollars ($25.00)" appearing in lines 5 and 6 and inserting in lieu thereof the words and figures "forty dollars ($40.00)"; and by striking the words and figures "five dollars ($5.00)" appearing in line 7 thereof and inserting in lieu thereof the words and figures "eight dollars ($8.00)".

Sec. 16. G.S. 20-289, as the same appears in the 1978 Replacement Volume 1C of the General Statutes, is hereby amended by rewriting same to read as follows:

"§ 20-289. License fees.—(a) The license fee for each fiscal year, or part thereof, shall be as follows:

(1) For motor vehicle dealers, distributors, and wholesalers, thirty dollars ($30.00) for each principal place of business, plus eight dollars ($8.00) for a supplementary license for each car lot not immediately adjacent thereto;

(2) For manufacturers, seventy-five dollars ($75.00), and for each factory branch in this State, forty-five dollars ($45.00);

(3) For motor vehicle salesmen, five dollars ($5.00);

(4) For factory representatives, or distributor branch representatives, six dollars ($6.00);

(5) Manufacturers, wholesalers, and distributors may operate as a motor vehicle dealer, without any additional fee or license.

(b) The fees and licenses collected under this section shall be placed in the Highway Fund. Provided, that nothing contained in this section or in any other section of this Article shall be construed as exempting any person of any license tax or fee imposed by any other provision of the law."

Sec. 17. G.S. 20-183.7, as the same appears in the 1980 Interim Supplement to the General Statutes, is hereby amended by striking the words and figures "thirty-five cents (35¢)" appearing in subsection (a), line 9; subsection (a1), lines 13 and 14; subsection (c)(1), line 1; and subsection (c)(2), line 3, and inserting in lieu thereof the words and figures "sixty cents (60¢)".

Sec. 18. G.S. 105-449.52, as the same appears in the 1979 Replacement Volume 2D of the General Statutes, is hereby amended by striking the words and figures "twenty-five dollars ($25.00)" appearing in line 6 and inserting in lieu thereof the words and figures "seventy-five dollars ($75.00)".

Sec. 19. G.S. 20-85, as the same appears in the Supplement to 1979 Replacement Volume 1C of the General Statutes, is hereby rewritten to read as follows:

"§ 20-85. Schedule of fees.—Except as provided in G.S. 20-68, there shall be paid to the Division for the issuance of certificates of title, transfer of registration and replacement of registration plates fees according to the following schedules:

(1) Each application for certificate of title $5.00

(2) Each application for duplicate or corrected certificate of title 7.00

(3) Each application of repossessor for
certificate of title 5.00
(4) Each transfer of registration 4.00
(5) Each set of replacement registration plates 9.00
(6) Each application for duplicate registration certificate 3.00
(7) Each application for recording supplementary lien 3.00
(8) Each application for removing a lien from a certificate of title 4.00.

Sec. 20. G.S. 20-57(b), as the same appears in the Supplement to 1979 Replacement Volume 1C of the General Statutes, is hereby amended by striking the words and figures “one dollar ($1.00)” appearing in line 8 and inserting in lieu thereof the words and figures “three dollars ($3.00)”:  

Sec. 21. G.S. 20-74, as the same appears in the Supplement to 1979 Replacement Volume 1C of the General Statutes, is hereby amended by striking the words and figures “three dollars ($3.00)” appearing in line 6 and inserting in lieu thereof the words and figures “four dollars ($4.00)”.

Sec. 22. G.S. 20-42(a), as the same appears in the 1979 Replacement Volume 1C of the General Statutes, is hereby amended by rewriting the schedule of fees appearing therein to read as follows:

“(1) One signature $2.00
(2) Two signatures 3.00
(3) Three or more signatures 4.00.”

Sec. 23. G.S. 20-42(b), as the same appears in the Supplement to 1979 Replacement Volume 1C of the General Statutes, is hereby amended by striking the words and figures “two dollars ($2.00)” appearing in lines 3 and 4 and inserting in lieu thereof the words and figures “four dollars ($4.00)”.

Sec. 24. G.S. 20-178, as the same appears in the 1979 Replacement Volume 1C of the General Statutes, is hereby amended by striking the words and figures “one dollar ($1.00)” appearing in line 9 and inserting in lieu thereof the words and figures “ten dollars ($10.00)”.  

Sec. 25. G.S. 20-309(e)(2), as the same appears in the 1980 Interim Supplement of the General Statutes, is hereby amended by striking the words and figures “fifteen dollars ($15.00)” appearing in line 2 and inserting in lieu thereof the words and figures “twenty-five dollars ($25.00)”.  

Sec. 26. G.S. 44A-4(b)(1), as the same appears in 1976 Replacement Volume 2A of the General Statutes, is hereby amended by striking the words and figures “two dollars ($2.00)” appearing in line 5 and inserting in lieu thereof the words and figures “four dollars ($4.00)”.  

Sec. 27. G.S. 20-118(5), as the same appears in 1978 Replacement Volume 1C of the General Statutes, is hereby amended by striking the words and figures “two cents (2¢)” appearing in line 7 and inserting in lieu thereof the words and figures “four cents (4¢); by striking the words and figures “three cents (3¢)” appearing in line 8 and inserting in lieu thereof the words and figures “six cents (6¢)”; and by striking the words and figures “five cents (5¢)” appearing at the end of line 8 and inserting in lieu thereof the words and figures “ten cents (10¢)”.

Sec. 28. G.S. 20-118, as the same appears in the 1978 Replacement Volume 1C of the General Statutes, is hereby amended by striking the words and figures “one cent (1¢)”, “two cents (2¢)” and “five cents (5¢)” appearing in
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lines 6, 7 and 8 of the second unnumbered paragraph following subdivision (12) and relating to violations of gross weight limitations and inserting in lieu thereof the words and figures "two cents (2¢)”, “four cents (4¢)”, and “ten cents (10¢)” respectively.

—IV. PROPERTY HAULING VEHICLES REGISTRATION FEES

Sec. 29, G.S. 20-88(b), as the same appears in the 1980 Interim Supplement to the General Statutes, is hereby amended by:

(a) Rewriting the schedule of weights and rates to read as follows:

“SCHEDULE OF WEIGHTS AND RATES

<table>
<thead>
<tr>
<th>Rates Per Hundred Pound Gross Weight</th>
<th>Farmer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not over 4,500 pounds</td>
<td>$0.23</td>
</tr>
<tr>
<td>4,501 to 8,500 pounds inclusive</td>
<td>.29</td>
</tr>
<tr>
<td>8,501 to 12,500 pounds inclusive</td>
<td>.37</td>
</tr>
<tr>
<td>12,501 to 16,500 pounds inclusive</td>
<td>.51</td>
</tr>
<tr>
<td>Over 16,500 pounds</td>
<td>.58</td>
</tr>
</tbody>
</table>

SCHEDULE OF WEIGHTS AND RATES

<table>
<thead>
<tr>
<th>Rates Per Hundred Pound Gross Weight</th>
<th>Private Hauler</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Contract Carriers, Flat</td>
</tr>
<tr>
<td></td>
<td>Rate Common Carriers and</td>
</tr>
<tr>
<td></td>
<td>Exempt for-Hire Carriers</td>
</tr>
<tr>
<td>Not over 4,500 pounds</td>
<td>$0.46</td>
</tr>
<tr>
<td>4,501 to 8,500 pounds inclusive</td>
<td>.58</td>
</tr>
<tr>
<td>8,501 to 12,500 pounds inclusive</td>
<td>.73</td>
</tr>
<tr>
<td>12,501 to 16,500 pounds inclusive</td>
<td>1.01</td>
</tr>
<tr>
<td>Over 16,500 pounds</td>
<td>1.15</td>
</tr>
</tbody>
</table>

SCHEDULE OF WEIGHTS AND RATES

<table>
<thead>
<tr>
<th>Rates Per Hundred Pound Gross Weight</th>
<th>Common Carrier of Property</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(Deposit)</td>
</tr>
<tr>
<td>Not over 4,500</td>
<td>$0.87</td>
</tr>
<tr>
<td>4,501 to 8,500 pounds inclusive</td>
<td>.87</td>
</tr>
<tr>
<td>8,501 to 12,500 pounds inclusive</td>
<td>.87</td>
</tr>
<tr>
<td>12,501 to 16,500 pounds inclusive</td>
<td>.87</td>
</tr>
<tr>
<td>Over 16,500 pounds</td>
<td>.87&quot;</td>
</tr>
</tbody>
</table>

(b) by striking the words and figures “twelve dollars and fifty cents ($12.50)” and “sixteen dollars ($16.00)” appearing in subdivision (1) and inserting in lieu thereof the words and figures “fourteen dollars and fifty cents ($14.50)” and “eighteen dollars and fifty cents ($18.50)” respectively;
(c) by striking the words and figures "sixty-two dollars and fifty cents ($62.50)" and "one hundred twenty-five dollars ($125.00)" appearing in subdivision (6) and inserting in lieu thereof the words and figures "seventy-two dollars ($72.00)" and "one hundred forty-five dollars ($145.00)" respectively.

Sec. 30. G.S. 20-88(c), as the same appears in the 1978 Replacement Volume 1C of the General Statutes, is hereby amended by striking the words and figures "four dollars ($4.00)" appearing therein and inserting in lieu thereof the words and figures "seven dollars ($7.00)".

—V. OVERSIZE AND OVERWEIGHT VEHICLE FEES

Sec. 31. G.S. 20-119, as it appears in the 1978 Replacement Volume 1C of the General Statutes, is rewritten to designate the entire body of the existing statute as subsection (a) and to include the following additional subsections:

"(b) Upon the issuance of a special permit for an oversize or overweight vehicle by the Department of Transportation in accordance with this section, the applicant shall pay to the Department a fee of five dollars ($5.00) for a single trip permit or twenty-five dollars ($25.00) for an annual permit issued for a single vehicle. Any person, firm or corporation who operates more than one vehicle may apply for, and the Department may issue, an annual permit for all oversize or overweight vehicles operated by said person, firm or corporation, and said applicant shall pay to the Department an annual fee based on the following schedule:

<table>
<thead>
<tr>
<th>No. of Vehicles</th>
<th>Annual Permit Rate Per Vehicle</th>
</tr>
</thead>
<tbody>
<tr>
<td>First 50</td>
<td>$25.00</td>
</tr>
<tr>
<td>51 to 100</td>
<td>20.00</td>
</tr>
<tr>
<td>101 to 150</td>
<td>15.00</td>
</tr>
<tr>
<td>Over 150</td>
<td>10.00.</td>
</tr>
</tbody>
</table>

Any vehicle required to obtain an overweight permit shall not be charged an additional fee for oversize. Any vehicle required to obtain an oversize permit shall not be charged an additional fee for overweight. This subsection shall not apply to farm equipment or machinery being used at the time for agricultural purposes, nor to the moving of a house as provided for by the license and permit requirements of Article 16 of this Chapter. Fees will not be assessed for permits for oversize and overweight vehicles issued to any agency of the United States Government or the State of North Carolina, its agencies, institutions, subdivisions or municipalities, provided the vehicle is registered in the name of such governmental body.

(c) Nothing in this section shall require the Department of Transportation to issue any permit for any load."

Sec. 32. G.S. 20-119(a), as recodified by Section 31, is amended by striking from lines 2 and 3 the words "in writing and", the same being the last word of line 2 and the first two words of line 3, and inserting in lieu thereof the word "for", and further amended by striking the word "width" in line 12 and inserting in lieu thereof the word "weight".

—VI. EFFECTIVE DATES

Sec. 33. Subsection (i) of Section 1 and subsection (f) of Section 2 shall become effective upon ratification; the remaining provisions of Sections 1 and 2 shall become effective July 1, 1981.

Sec. 34. Section 3 shall become effective July 1, 1981.

Sec. 35. Section 4 shall become effective July 1, 1981, provided that the allocation made on October 1, 1981, shall not be affected.
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Sec. 36. Sections 5 and 6 shall become effective July 1, 1981.
Sec. 37. Sections 6 through 32 shall become effective on July 1, 1981, except Sections 15, 16 and 17 which shall become effective January 1, 1982, and Section 31 shall become effective September 1, 1981.

In the General Assembly read three times and ratified, this the 26th day of June, 1981.

H. B. 408  CHAPTER 691

AN ACT TO INCREASE THE FEES FOR THE USE OF THE COURTROOM AND RELATED JUDICIAL FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-304(a)(2) is amended by rewriting the first sentence to read: "For the use of the courtroom and related judicial facilities, the sum of five dollars ($5.00) in the district court, including cases before a magistrate, and the sum of twenty-three dollars ($23.00) in superior court, to be remitted to the county in which the judgment is rendered."

Sec. 2. G.S. 7A-305(a)(1) is amended by rewriting the first sentence to read: "For the use of the courtroom and related judicial facilities, the sum of five dollars ($5.00) in cases heard before a magistrate, and the sum of nine dollars ($9.00) in district and superior court, to be remitted to the county in which the judgment is rendered, except that in all cases in which the judgment is rendered in facilities provided by a municipality, the facilities fee shall be paid to the municipality."

Sec. 3. G.S. 7A-306(a)(1) is amended by rewriting the first sentence to read: "For the use of the courtroom and related judicial facilities, the sum of three dollars ($3.00), to be remitted to the county."

Sec. 4. G.S. 7A-307(a)(1) is amended by rewriting the first sentence to read: "For the use of the courtroom and related judicial facilities, the sum of three dollars ($3.00), to be remitted to the county."

Sec. 5. This act shall become effective July 1, 1981, and shall apply to actions initiated on or after this date.

In the General Assembly read three times and ratified, this the 26th day of June, 1981.

H. B. 623  CHAPTER 692

AN ACT TO AUTHORIZE COUNTIES TO EXPEND TAX FUNDS AND EXERCISE THE POWER OF EMINENT DOMAIN FOR PURPOSES OF PUBLIC AUDITORIUMS, COLISEUMS, AND CONVENTION AND CIVIC CENTERS AND TO OTHERWISE AUTHORIZE ESTABLISHMENT AND SUPPORT OF SAME.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-149(c) as amended by Chapter 66, Session Laws of 1981 is amended by adding a new subdivision to read:

"(6b) Auditoriums, coliseums, and convention and civic centers — to provide public auditoriums, coliseums, and convention and civic centers."

Sec. 2. G.S. 153A-159 is amended by adding to the purposes for which the power of eminent domain may be exercised the following additional purpose:
“(8) Establishing, enlarging, constructing, or improving public auditoriums, coliseums, and convention and civic centers pursuant to G.S. 160A-489.”

Sec. 3. G.S. 153A-445(a) is amended by adding subparagraph (6) which shall read as follows:
“(6) G.S. 160A-489.—auditoriums, coliseums, and convention and civic centers.”

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1981.

H. B. 705

CHAPTER 693

AN ACT TO AMEND THE CHARTER OF THE TOWN OF NAGS HEAD TO PERMIT THE REGULATION OF TOW TRUCK OPERATIONS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 808, Session Laws of 1961, is amended by adding a new section to read:
“Sec. 6.1. The governing body of the town may regulate tow truck operations; to include but not be limited to the establishment of hours of operation, the setting of fees, and the requirement for insurance.”

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1981.

H. B. 721

CHAPTER 694

AN ACT AMENDING THE CHARTER OF THE CITY OF DURHAM.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Durham, said Charter being Chapter 671, Session Laws of 1975, as amended, is amended by revising the last paragraph of Section 17 to provide as follows:
“The City Council may authorize the City Manager to make, approve, award and execute any contract for the purchase of apparatus, supplies, materials or equipment and any contract for construction or repair work provided:
1. The amount of the contract shall not exceed thirty thousand dollars ($30,000);
2. The City Manager shall, within 45 days of the award of such contract, report such award to the City Council;
3. The City Manager shall comply with all applicable provisions of Article 8 of Chapter 143 of the North Carolina General Statutes and of Section 84 of this charter. The City Manager may take any action which the City Council is required or authorized to take under Article 8 of Chapter 143 of the North Carolina General Statutes in making, approving, awarding or executing such contracts.”

Sec. 2. Section 51 of the Charter of the City of Durham is amended by adding the following two sentences at the end of said section:
“A notice may be sent to such owners in lieu of a copy of the resolution. A notice may be published in lieu of the publication of the resolution.”
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Sec. 3. Section 77(21) of the Charter of the City of Durham is amended by deleting the word "eight" appearing in the thirteenth line of said subsection (21) and inserting in lieu thereof the word "nine".

Sec. 4. Section 78(2) of the Charter of the City of Durham, is amended by deleting the last paragraph of said subsection (2) and substituting, in lieu thereof, the following new paragraph:

"At least 10 days prior to the date fixed for the hearing, the City Council shall cause a notice to be published at least one time in a newspaper of general circulation in the City. The notice shall contain the information described in paragraphs (a) through (f) of this subsection (2)."

Sec. 5. The first sentence of Section 85 of the Charter of the City of Durham is revised to provide as follows:

"The City may purchase apparatus, supplies, materials or equipment necessary to properly maintain and keep in repair specialized equipment of the City and may make contracts for the repair of such equipment after obtaining informal bids, provided, however, when there is only one known manufacturer or supplier of such equipment or only one known party who can repair such equipment, then a single informal bid from such supplier, manufacturer or party is sufficient."

Sec. 6. Section 89 of the Charter of the City of Durham is amended by adding the following paragraph at the end of said section:

"This section does not limit the authority of the City to exercise its extraterritorial jurisdiction pursuant to Article 19 of Chapter 160A of the North Carolina General Statutes."

Sec. 7. Section 95 of the Charter of the City of Durham is revised to provide as follows:

"The City Council is authorized to provide that no person, corporation, association or partnership shall open or lay out new streets, or sell lots abutting the same without first making a plat of the proposed street or streets and having the plat approved by the City Council. The City Council may designate a planning agency created pursuant to G.S. 160A-361 or a subdivision review board created pursuant to Section 97 of this Charter to approve the plat. The Council may regulate and control the opening of streets and alleys within its jurisdiction."

Sec. 8. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 9. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1981.
H. B. 743  CHAPTER 695
AN ACT TO PROVIDE FOR STATE AGENCIES TO CHARGE CERTAIN USER FEES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 12-3.1(c) is hereby amended by deleting "or" after the comma and before the word "State" in the last sentence.

Sec. 2. G.S. 12-3.1(c) is further amended by placing between the word "publications" and the period the phrase ", registration fees covering the cost of a conference or workshop, or user fees covering the cost of providing data processing services."

Sec. 3. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 26th day of June, 1981.

H. B. 999  CHAPTER 696
AN ACT TO PERMIT THE TOWING OF UNAUTHORIZED VEHICLES PARKED ON STATE-OWNED PUBLIC GROUNDS WITHIN THE CITY OF RALEIGH UNDER THE CONTROL OF THE DEPARTMENT OF ADMINISTRATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-340(19) is amended by adding a new sentence, after the first sentence, to read:
"Any motor vehicle parked without authorization on State-owned public grounds within the City of Raleigh under the control of the Department of Administration other than a designated parking area may be removed from that property to a storage area and the registered owner of the vehicle shall be liable for removal and storage fees."

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 26th day of June, 1981.

H. B. 1087  CHAPTER 697
AN ACT LIMITING THE FOX HUNTING SEASON IN WAYNE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It is unlawful to hunt foxes in any manner from March 16 to August 1.

Sec. 2. This act applies only to Wayne County.

Sec. 3. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 26th day of June, 1981.
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H. B. 1179  CHAPTER 698

AN ACT TO AUTHORIZE THE TOWN OF LILLINGTON BOARD OF ALCOHOLIC CONTROL TO DISPOSE OF A RESERVE ACCUMULATED FOR THE PURPOSE OF ALCOHOLIC EDUCATION AND REHABILITATION.

The General Assembly of North Carolina enacts:

Section 1. Section 6 of Chapter 798 of the Session Laws of 1963 is amended by adding thereto the following new subsection 4:

"4. On July 1, 1981, the Town of Lillington Board of Alcoholic Control may distribute the amount it has accumulated for the purposes described in subsection 2 of this section in the manner and in the proportions described in subsections 1 and 3 of this section."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1981.

H. B. 1205  CHAPTER 699

AN ACT TO AUTHORIZE THE ONSLOW COUNTY BOARD OF EDUCATION TO CONVEY CERTAIN PROPERTY AT PRIVATE SALE TO COASTAL ENTERPRISES OF JACKSONVILLE, INC.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of G.S. 115-126 or G.S. 115C-518, the Onslow County Board of Education is authorized to convey to Coastal Enterprises of Jacksonville, Inc., at private sale its right, title, and interest to any or all of the land described below, and improvements thereon:

TRACT I: Lying and being on the West side of No. 3 Street and the north side of Mill Avenue, and Beginning at the northern intersection of Mill Avenue where the same intersects with the western line of No. 3 Street; thence with the western line of No. 3 Street North 27 degrees 35 minutes West 125 feet to the Mary Henderson lot designated as Lot 25 on the map hereinafter referred to; thence with the Henderson line South 62 degrees 35 minutes West approximately 62 feet to the line of Lot 113, or the Farnell property line; thence with the Farnell line, which is the same as the line of Lot 113, South 27 degrees 35 minutes East 125 feet to the northern line of Mill Avenue; thence with the northern line of Mill Avenue North 62 degrees 35 minutes East approximately 62 feet to the beginning, and being that certain lot designated as the M. E. Church lot on a map prepared by J. A. Mattocks, Surveyor, showing subdivision by Wilbur McIntyre, which map is recorded in Map Book 1, page 25, Onslow County Registry, and to which map reference is hereby made for a fuller and more accurate description. This property includes the description contained in Book 57, page 266, Onslow County Registry, and that part between the description in Book 57, page 266 lying between the northern edge of said description and the line of Lot 25 or the Henderson tract of land, the title in which strip has vested in the grantors by virtue of dedication by Wilbur McIntyre and by virtue also of adverse possession for more than 50 years.

TRACT II: Beginning at a point on No. 'Three' Street, fifteen (15) feet from the Northwest corner of the M.E. Church's (south) lot and running thence with said street North 28 degrees West, One Hundred and Seven (107) feet and six (6)
inches to William Street, thence with William Street North 74 degrees West Five (5) feet and six (6) inches to Ann Street, thence with Ann Street South 62 degrees West Seventy Three (73) feet and five (5) inches to a point on said Street, thence South 28 degrees East and at right angles to Ann Street, One Hundred and Eleven (111) feet, thence North 62 degrees East Seventy Five (75) feet to the point of beginning, and being numbered on the Map made by J. A. Mattocks as Lot ‘25’.

TRACT III: BEGINNING at the point where the Eastern right of way line of No. 1 Street intersects the Northern right of way line of Kerr Street and running thence from said beginning point with the aforementioned eastern right of way line of No. 1 Street North 28 degrees 30 minutes West 160.45 feet to an iron stake; thence leaving No. 1 Street and running North 61 degrees 15 minutes East 124 feet to an iron stake; thence South 28 degrees 30 minutes East 160.45 feet to a point designated by a cross chop in the aforementioned Northern right of way line of Kerr Street; thence with the Northern right of way line of Kerr Street South 61 degrees 15 minutes West 124 feet to an iron stake at the point of beginning.

TRACT IV: Being the lot and residence in the Town of Jacksonville, North Carolina, on which the Day family has resided since 1919, being situated on the south side of Ann Street and north side of No. 2 Street in said Town, BEGINNING at the intersection of No. 2 Street with Ann Street and running thence north 62 degrees east with Ann Street to the old fence which indicates the line between the residence of the late Mrs. Mary Henderson and the property now described; thence with Mrs. Henderson’s southwest line about 111 feet to the corner of the lot owned by the Onslow County Board of Education (which was formerly the Methodist Church lot) and which was also a corner or point in the line of the Lula Farnell lot; thence with the Farnell lot or the George A. Hurst lot, later the M. A. Cowell lot to No. 2 Street at the corner of the original Barber lot (now part of the Cowell property); thence with said No. 2 Street 111 feet to the intersection of said Street with Ann Street, the point of beginning, being the same lot or lots deeded to S. R. Freeburn by S.S. Ambrose and wife by deed recorded in Book 123, Page 269, of the Registry of Deeds for Onslow County; also being the same deeded to S.S. Ambrose by Frank Thompson and wife by deed recorded in Book 121, Page 110 of said Registry of Deeds of Onslow County; also, being the same conveyed by S. R. Freeburn and wife to N. Sylvester on the 29th day of December 1919 by deed recorded in Book 132, at Page 568 of said Registry of Deeds (excepted from the descriptions set out in the said deeds above referred to the lappage with the Mary Henderson lot which extends from the above mentioned fence over the southwestern part of the said Mary Henderson’s lot, it being the purpose of this description to cover only the land as to which there is no lappage). Being that property designated as Tract (First) in the quitclaim and division deed dated April 1st, 1959, and recorded in Book 288, Page 101, Onslow County Registry.

TRACT V: Beginning at the point of intersection of the eastern right of way of Fairway Road and the southern right of way of Commerce Road, as shown on a map recorded in Map Book 12, Page 72, of the Onslow County Registry; thence from said point of beginning with the southern right of way of Commerce Road North 54 degrees 25 minutes East 400.0 feet to a point; thence leaving said right of way South 35 degrees 35 minutes East 200.0 feet to a point; thence South 54 degrees 25 minutes West 397.03 feet to a point in the eastern right of way of

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Fairway Road, said point being located in a curve having a radius of 542.96 feet; thence with the eastern right of way of Fairway Road in a northwesterly direction an arc north 35 degrees 35 minutes west 143.31 feet to the point of beginning, containing 1.835 acres.

Sec. 2. Notwithstanding the provisions of G.S. 115-126 or G.S. 115C-518, the Onslow County Board of Education is authorized to convey to Coastal Enterprises of Jacksonville, Inc., at private sale its right, title, and interest to a 1968 Dodge Truck, Title #8508046A, Motor I.D. #1962148237.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1981.

H. B. 1242  CHAPTER 700

AN ACT TO AUTHORIZE THE CITY BOARD OF ALCOHOLIC CONTROL OF THE CITY OF LENOIR TO CONTRACT WITH THE CITY OF LENOIR TO PROVIDE LAW ENFORCEMENT OF THE LIQUOR LAWS.

The General Assembly of North Carolina enacts:

Section 1. Session Laws 1963, Chapter 398, Section 5 is hereby amended by striking therefrom the word "shall" as the same appears in the tenth line of that section and substituting in lieu thereof the word "may".

Session Laws 1963, Chapter 398, Section 5 is further amended by adding at the end of the first paragraph of that section the following:

"The City of Lenoir Board of Alcoholic Control may contract with the City of Lenoir to provide an officer or officers to enforce the liquor laws, which contract shall provide that the officer appointed shall be designated by the chief of police of the town. The officer so appointed shall have the same powers and duties as would an officer directly responsible to the Board."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1981.

H. B. 459  CHAPTER 701

AN ACT TO PERMIT THE GOVERNOR TO ACCEPT PERMISSIVE FEDERAL DELEGATIONS OF AUTHORITY TO TAKE ACTIONS NECESSARY TO MANAGE AND TO DEAL WITH AN ACTUAL OR IMPENDING ENERGY RESOURCE SHORTAGE, TO ADD TO THE MEMBERSHIP OF THE ENERGY POLICY COUNCIL AND TO PROVIDE FOR THE CONFIDENTIALITY OF CERTAIN DATA RECEIVED BY THE ENERGY DIVISION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113B 7(e), as the same appears in Replacement Volume 3A, Part II, is amended by adding the following sentence immediately following the period in line 7:

"The Governor shall have the authority to accept, administer, and enforce federal programs, program measures and permissive delegations of authority delegated to the Governor by the President of the United States, Congress, or the United States Department of Energy, on behalf of the State of North Carolina, which pertain to the conservation of energy resources."

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Sec. 2. G.S. 113B-8, as the same appears in Replacement Volume 3A, Part II, is amended by adding new subsections (g) and (h) which shall read as follows:

"(g) The Governor shall have the authority to accept, administer and enforce federal programs, program measures, and permissive delegations of authority delegated to the Governor by the President of the United States, Congress, or the United States Department of Energy, on behalf of the State of North Carolina, which pertain to management of energy resources.

(h) The Governor shall have the authority to accept, administer and enforce the delegation of authority delegated to the State by the Emergency Petroleum Allocation Act and the Emergency Energy Conservation Act of 1979 and any orders, rules, and regulations issued pursuant to those acts as well as any succeeding federal programs, program measures, laws, orders, or regulations relating to the allocation, conservation, consumption, management or rationing of energy resources."

Sec. 3. G.S. 113B-9, as the same appears in Replacement Volume 3A, Part II, is amended by deleting subsection (f)(4) in its entirety and adding a new subsection (k) which shall read as follows:

"(k) The Governor shall have the authority to accept, administer and enforce federal programs, program measures and permissive delegations of authority delegated to the Governor by the President of the United States, Congress, or the United States Department of Energy, on behalf of the State of North Carolina, which pertain to actions necessary to deal with an actual or impending energy shortage."

Sec. 4. G.S. 113B-3(a), as the same appears in Volume 3A, Part II of the 1979 Cumulative Supplement to the General Statutes, is hereby amended by substituting the number "18" in lieu of the number "16" in line 2 and by substituting the word "Nine" in lieu of the word "Seven" immediately following the number "(3)" in line 8.

Sec. 5. G.S. 113B-3(c), as the same appears in Replacement Volume 3A, Part II of the General Statutes, is hereby amended by adding the following language after subdivision (7):

"(8) One such member who, at the time of appointment, is a county commissioner; provided, such member's term on the Council shall expire immediately in the event that he or she vacates office as a county commissioner;

(9) One such member who, at the time of appointment, is an elected municipal official; provided, such member's term on the Council shall expire immediately in the event that he or she vacates office as an elected municipal official."

Sec. 6. Article 10, Part 8 of the General Statutes, as the same appears in 1978 Replacement Volume 3C, is hereby amended by the addition of a new section to read as follows:

"§ 143B-450.1. The Energy Division shall keep confidential any individually identifiable energy information to the extent necessary to comply with the confidentiality requirements of the reporting agency, and any such information shall not be subject to the public disclosure requirements of G.S. 132-6. 'Individually identifiable energy information' shall be defined as any individual record or portion of a record or aggregated data containing energy information.
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about a person or persons obtained from any source, the disclosure of which could reasonably be expected to reveal information about a specific person."

Sec. 7. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 26th day of June, 1981.

H. B. 987  CHAPTER 702

AN ACT TO AMEND CHAPTER 1, CIVIL PROCEDURE - LIMITATIONS, OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1-52 is amended by adding a new subdivision (17) at the end thereof:

“(17) Against a public utility, electric or telephone membership corporation, or a municipality for damages or for compensation for right-of-way or use of any lands for a utility service line or lines to serve one or more customers or members unless an inverse condemnation action or proceeding is commenced within three years after the utility service line has been constructed or by October 1, 1984, whichever is later.”

Sec. 2. This act is effective October 1, 1981.

In the General Assembly read three times and ratified, this the 26th day of June, 1981.

H. B. 1312  CHAPTER 703

AN ACT TO MAKE MORE CERTAIN THE LOCATION OF CERTAIN STREET RIGHTS-OF-WAY IN THE TOWN OF PRINCEVILLE THROUGH THE ADOPTION OF AN OFFICIAL MAP OF SAID STREETS.

The General Assembly of North Carolina enacts:

Section 1. Purpose and findings. The General Assembly finds and declares that it is in the public interest and in the interest of affected property owners for street right-of-way lines in the original Town of Princeville to be made more definite and certain through the adoption of an Official Map, and makes the following additional findings:

(1) The Town of Princeville was originally laid out in a plat of portions of the M. A. Keech farm and the Shaw farm in Edgecombe County in or about the year 1878. This plat showed streets and lots. The plat was never recorded. However, present street locations appear to reflect those shown on the plat.

(2) Beginning January 1, 1880, lots in the area shown on the plat were transferred by deeds which made no reference to the plat nor to any easements for street rights-of-way nor to any existing streets. In general, these deeds defined boundaries in terms of now-unidentifiable physical features and the similarly-described boundaries of adjoining lots. Title to many of these lots has passed through unadministered estates and inaccurate or improperly executed deeds, so that it is extremely difficult to ascertain with certainty the present ownership.

(3) The Town of Princeville was incorporated by Chapter 29 of the Private Laws of 1885 on February 20, 1885. At that time all of the streets presently within the Old Princeville Community Development Project Area had actually
been opened and were used by the general public. Throughout its history the Town has maintained these streets. In some of them it has installed water and sewer and power lines. A few sections have been paved with Powell Bill funds.

(4) The Town of Princeville has recently received a grant by the federal Department of Housing and Urban Development under the Community Development Block Grant Program, a major portion of which has been designated for paving and other street improvements in the designated project area, which comprises much of the original Town of Princeville. According to HUD requirements, these funds can be spent only for improvements to public streets. The funds must also be spent promptly, or they will revert. This necessitates identification of the streets to be improved within a relatively short time period.

(5) Because of the continuous use of these streets by the public since 1885 or earlier and the Town's maintenance of and improvements to these streets, it is apparent that the public has acquired legal easements in them through the doctrine of prescription. However, in order to meet the HUD requirements and to benefit all the citizens of the Town by specifying more precisely the location of these easements, the Town Board of Commissioners directed the preparation of an Official Map of the affected streets, based upon the center lines of the traveled portions of those streets.

(6) The Board of Commissioners has held properly advertised public hearings on May 18, 1981, and May 26, 1981, to review maps of street lines as determined by a surveyor and to discuss plans for street improvements in the Community Development project area. Comments and objections from property owners concerning these maps were solicited, and none were received.

(7) The Board of Commissioners thereupon directed the surveyor to prepare an official map of the Old Princeville Community Development Project Area showing street center lines and right-of-way lines as discussed in the above hearings. The Board formally adopted this map at its meeting on June 22, 1981. It then requested that the General Assembly ratify this action.

Sec. 2. Ratification and adoption of Official Map. The General Assembly hereby ratifies and adopts the Official Map of the Old Princeville Community Development Project Area, dated June 22, 1981, insofar as it indicates the location of street center lines and right-of-way lines of existing streets in the said project area and subject to modification by any legal action which may be brought within the period specified in Section 4 of this act.

Sec. 3. Publication of Official Map. A copy of the Official Map of the Old Princeville Community Development Project Area shall be made available for public inspection in the Community Development Department office of the Princeville Town Hall during the hours from 8:00 a.m. until 5:00 p.m. each Monday through Friday during the 60 days following the effective date of this act. Legal notice of such availability shall be given in at least one newspaper with general circulation within the Town of Princeville in each of the first two calendar weeks following the effective date of this act.

Sec. 4. Limitation on challenges to Official Map. No challenge to the validity of the above described Official Map or to the location of any street center line or right-of-way line shown thereon shall be allowed in any action or proceeding commenced later than 60 days after the effective date of this act.
Sec. 5. Registration of Official Map. A certified copy of the above described Official Map shall be recorded in the office of the Edgecombe County Register of Deeds not later than 60 days after the effective date of this act.

Sec. 6. All laws and clauses of laws, public or local, in conflict with the provisions of this act are repealed to the extent of such conflict.

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1981.

S. B. 443  CHAPTER 704

AN ACT TO PROVIDE FOR THE MANAGEMENT OF HAZARDOUS AND LOW-LEVEL RADIOACTIVE WASTE IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. Short title. This act may be referred to as the Waste Management Act of 1981.

Sec. 2. Purpose. The purpose of this act is to provide for a comprehensive system for management of hazardous and low-level radioactive waste in North Carolina as reflected in the 1981 Report of the Governor’s Task Force on Waste Management.

Sec. 3. Creation of Governor’s Waste Management Board. Chapter 143B of the General Statutes as it appears in Volume 3C of the General Statutes and the Cumulative Supplement thereto is amended by adding a new Part to read:

“Part 27.

“Governor’s Waste Management Board.

“§ 143B-216.10. Declaration of findings.—(a) The General Assembly of North Carolina hereby finds and declares that the safe management of hazardous wastes and low-level radioactive wastes, and particularly the timely establishment of adequate facilities for the disposal and management of hazardous wastes and low-level radioactive wastes is one of the most urgent problems facing North Carolina. The safe management and disposal of these wastes are essential to continued economic growth and to protection of the public health and safety. When improperly handled, these wastes pose a threat to the water, land, and air resources of the State, as well as to the health and safety of its citizens. Consequently, cooperation and coordination among the private sector, the general public and State and local agencies to assure the prevention of unnecessary waste and the establishment of adequate treatment and disposal facilities are essential. The General Assembly further finds that cooperation and coordination among the private sector, the general public and State regulatory agencies will be advanced by the creation of a Governor’s Waste Management Board.

(b) It is the intent of the General Assembly by enactment of the Waste Management Act of 1981 to prescribe a uniform system for the management of hazardous waste and low-level radioactive waste and to place limitations upon the exercise by all units of local government in North Carolina of the power to regulate the management of hazardous waste and low-level radioactive waste by means of special, local, or private acts or resolutions, ordinances, property restrictions, zoning regulations or otherwise. To this end, all provisions of special, local or private acts or resolutions are repealed which (1) prohibit the transportation, treatment, storage, or disposal of hazardous or low-level
radioactive waste within any county, city, or other political subdivision; (2) prohibit the siting of a hazardous waste facility or a low-level radioactive waste facility within any county, city, or other political subdivision; (3) place any restriction or condition not placed by this act or by General Statutes Chapter 130, Article 13B or Chapter 104E upon the transportation, treatment, storage or disposal of hazardous or low-level radioactive waste, or upon the siting of a hazardous waste facility or low-level radioactive waste facility within any county, city, or other political subdivision; or (4) in any manner are in conflict or inconsistent with the provisions of this act or General Statutes Chapter 130, Article 13B or Chapter 104E. No special, local or private acts or resolutions enacted or taking effect hereafter may be construed to modify, amend or repeal any portion of the Waste Management Act of 1981 unless it expressly provides for such by specific references to the appropriate section of this act. Further to this end, all provisions of local ordinances, including those regulating land use, adopted by counties, municipalities, or other local authorities are invalidated which (1) prohibit or have the effect of prohibiting the establishment or operation of a hazardous waste facility or a hazardous waste landfill facility approved by the Governor pursuant to G.S. 130-166.17B; or (2) prohibit or have the effect of prohibiting the establishment or operation of a low-level radioactive waste facility or a low-level radioactive waste landfill facility approved by the Governor pursuant to G.S. 104E-6.2.

(c) The General Assembly of North Carolina hereby finds and declares that prevention, recycling, detoxification, and reduction of hazardous wastes should be encouraged and promoted. These are alternatives which ultimately remove such wastes’ hazards to human health and the environment. When these alternatives are not technologically feasible, retrievable above-ground storage is sometimes preferable to other means of disposal of some types of waste until appropriate methods for recycling or detoxification of the stored wastes are found. Landfilling shall be used only when it is clearly appropriate.

"§ 143B-216.11. Definitions.—Unless the context otherwise requires, the following definitions shall apply to this Part:

1. 'Hazardous Waste Facility' means a facility as defined in G.S. 130-166.16(5).
2. 'Hazardous Waste Landfill Facility' means a facility as defined in G.S. 130-166.16(5a).
3. 'Hazardous Waste Management' has the same meaning as defined in G.S. 130-166.16(7).
4. 'Hazardous Waste' has the same meaning as in G.S. 130-166.16(4).
5. 'Low-Level Radioactive Waste Facility' means a facility as defined in G.S. 104E-5(9b).
6. 'Low-Level Radioactive Waste Landfill Facility' means a facility as defined in G.S. 104E-5(9c).
7. 'Low-Level Radioactive Waste Management' means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery and disposal of low-level radioactive waste.
8. 'Low-Level Radioactive Waste' has the same meaning as in G.S. 104E-5(9a).
9. 'Board' means the Governor’s Waste Management Board.
"§ 143B-216.12. Creation and membership.—(a) There is hereby created the Governor’s Waste Management Board to be located in the Department of Human Resources. The composition of the board shall be as follows:

(1) Five members from State government: The Secretary or Commissioner of Human Resources, Natural Resources and Community Development, Commerce, Agriculture, and Crime Control and Public Safety. At the request of such Secretary or Commissioner, the Governor may appoint another official from the same department to serve in his stead.

(2) Eight members appointed by the Governor from the following categories: one from county government, one from municipal government, two from private industry, two from the field of higher education, research or technology, and two from the public at large interested in environmental matters.

(3) Two members from the General Assembly, one of whom shall be appointed by the Speaker of the House from the House of Representatives and one of whom shall be appointed by the Lieutenant Governor from the Senate.

(b) The members appointed by the Governor shall serve three-year terms until they are reappointed or replaced, except that two of the original members shall serve terms of one year, three of the original members shall serve terms of two years and three of the original members shall serve terms of three years. The members appointed from the General Assembly shall serve during the terms which they are serving when appointed to the board and until their successors are appointed or until they cease to be members of the General Assembly, whichever occurs first.

(c) The initial members appointed by the Governor shall be appointed as soon as possible after passage of this act and shall serve terms as set forth in subsection (b).

(d) The chairperson of the board shall be appointed by and serve at the pleasure of the Governor.

(e) Any appointment to fill a vacancy on the board created by resignation, dismissal, death, disability or any other cause shall be for the balance of the unexpired term.

(f) Any member of the board may be removed by the Governor for misfeasance, malfeasance, or nonfeasance, except that the members from the House of Representatives and the Senate may be removed for such reasons only by the Speaker of the House and the Lieutenant Governor respectively.

(g) Members of the board who are State employees shall receive travel expenses as set forth in G.S. 138-6. Board members who are legislators shall receive travel and subsistence allowances as set forth in G.S. 120-3.1. The other board members shall receive per diem and travel expenses as set forth in G.S. 138-5.

(h) A majority of the board shall constitute a quorum for the transaction of business.

"§ 143B-216.13. Functions and powers of the board.—The board shall perform the functions and be empowered as follows:

(1) The board shall periodically evaluate and assess the volume, distribution, location, and physical and chemical characteristics of hazardous waste and low-level radioactive waste generated or disposed of in the State.
(2) The board shall periodically review the State's comprehensive waste management system and make recommendations to the Governor, cognizant State agencies, and the General Assembly on ways to improve waste management; reduce the amount of waste generated; maximize resource recovery, reuse, and conservation; and minimize the amount of hazardous waste and low-level radioactive waste which must be disposed of.

(3) The board shall study and make recommendations on policy issues including but not limited to liability and financial responsibilities within the waste management area. On or before January 1, 1983, the Board shall prepare and present to the Governor and General Assembly a report concerning the desirability of establishing by statute a standard of strict liability for persons involved in storage, transportation, treatment, or disposal of hazardous or low-level radioactive waste in North Carolina.

(4) The board shall promote research and development and disseminate information on state-of-the-art means of handling and disposing of hazardous waste and low-level radioactive waste. The board is authorized to establish a waste information exchange for the State.

(5) The board shall promote public education and public involvement in the decision making process for the siting and permitting of proposed waste management facilities.

(6) The board shall periodically evaluate and assess the type and number of hazardous waste facilities, hazardous waste landfill facilities, low-level radioactive waste facilities and low-level radioactive waste landfill facilities in existence, under construction or planned in the State and multi-State region and promote the development of additional facilities particularly retrievable above-ground storage facilities if existing or planned facilities are deemed inadequate or unavailable.

(7) The board shall prepare and file jointly with the Governor and the General Assembly an annual report describing the board's activities and setting forth its recommendations for administrative or regulatory action required to improve the State's comprehensive waste management system or remedy noted defects in the system. A special report shall be filed in January of 1983 which shall include an evaluation on the possible need to organize State agencies more efficiently to improve overall performance of waste management functions. The report should give consideration to the advantages and disadvantages of consolidating or centralizing administration of programs that are now in separate agencies.

(8) The board shall each year recommend to the Governor a recipient for a 'Governor's Award of Excellence' which the Governor shall award for outstanding achievement by an industry or company in the area of hazardous waste or low-level radioactive waste management.

(9) The board shall promote and participate in discussion with other states concerning development of regional hazardous waste and low-level radioactive waste management agreements.

(10) The board shall assist localities in which facilities are proposed in collecting and receiving information relating to the suitability of the proposed site. At the request of a local government in which facilities are proposed, the board shall direct the appropriate agencies of State government to develop such relevant data as that locality shall reasonably request.
(11) The board shall, in accordance with the procedures set forth in G.S. 130-166.17B and G.S. 104E-6.2, make requisite findings and submit its recommendation to the Governor concerning the exercise of the State's preemptive powers.

(12) The board shall, in accordance with the procedures set forth in G.S. 160A-211.1 and G.S. 153A-152.1, review upon appeal specific privilege license tax rates which localities may apply to waste management facilities in their jurisdiction.

(13) The board may insure its members against personal liability for any actions they might take pursuant to the exercise of the functions and powers of the board.

(14) The board may adopt, modify, or revoke any rules necessary to carry out the functions and powers as set forth in this Part.

(15) The board shall have any and all powers necessary or incidental to the exercise of the functions and powers enumerated herein.

(16) The board shall study the development of retrievable, above-ground storage facilities for hazardous wastes.

"§ 143B-216.14. Functions and powers of the Department of Human Resources.—The Department of Human Resources is authorized:

(1) To enter upon any lands and structures upon lands to make surveys, borings, soundings and examinations as may be necessary to determine the suitability of a site for a hazardous waste facility, hazardous waste landfill facility, low-level radioactive waste facility or low-level radioactive landfill facility. The Department shall give 30 days' notice of the intended entry authorized by this section in the manner prescribed for service of process by G.S. 1A-1, Rule 4. Entry under this section shall not be deemed a trespass or taking; provided however that the Department shall make reimbursement for any damage to such land or structures caused by such activities;

(2) To provide necessary clerical, technical, and administrative assistance to the board, and to employ the necessary personnel for the accomplishment of the purposes of this Part.

(3) To enforce any rules adopted by the board pursuant to this Part in the manner provided for by G.S. 130-166.21E and G.S. 104E-24.

"§ 143B-216.15. Reporting procedures.—The Governor's Waste Management Board shall report directly to the Governor except as otherwise expressly provided."

Sec. 4. Amendments to Solid Waste Management Act. G.S. 130-166.16 as it now appears in Volume 3B of the North Carolina General Statutes is hereby amended by:

(1) adding a new subdivision (5a) to read as follows:

"(5a) 'Hazardous Waste Landfill Facility' means any facility or any portion of a facility for disposal of hazardous waste on or in land in accordance with rules promulgated under this Article."

(2) adding in subdivision (10a) after the word "government" on line 2 the words "State agency, federal agency."

(3) by making the following changes in subdivision (16):

Adding in b.3. after the word "Commission" the words "except that any sludges that meet the criteria for hazardous waste under the Federal Resource Conservation and Recovery Act (PL 94-580) as amended, shall also be a solid waste for the purposes of this Article"; by adding in c. after the word "Statutes"
the words "except that any such oils or other liquid hydrocarbons that meet the
criteria for hazardous waste under the Federal Resource Conservation and
Recovery Act (PL 94-580) as amended, shall also be a solid waste for the
purposes of this Article"; and by adding in e. after the parenthesis in line 3 the
words "except that any specific mining waste that meets the criteria for
hazardous waste under the Federal Resource Conservation and Recovery Act
(PL 94-580) as amended, shall also be a solid waste for the purposes of this
Article."

Sec. 5. Article 13B of Chapter 130 of the General Statutes as it now
appears in Volume 3B is hereby amended by:

(1) adding a new section 130-166.17A to read as follows:

§ 130-166.17A. Conveyance of hazardous waste landfill facility to the
State.—(a) No land may be used for a commercial hazardous waste landfill
facility until fee simple title to the land has been conveyed to the State of
North Carolina. In consideration for such conveyance, the State shall enter into
a lease agreement with the grantor for a term equal to the estimated life of the
facility in which the State will be the lessor and the grantor the lessee. Such
lease agreement shall specify that for an annual rent of fifty dollars ($50.00), the
lessee shall be allowed to use the land for the development and operation of a
hazardous waste landfill facility. Such lease agreement shall provide that the
lessor or any person authorized by the lessor shall at all times have the right to
enter without a search warrant or permission of the lessee upon any and all
parts of the premises for monitoring, inspection and all other purposes
necessary to carry out the provisions of G.S. Chapter 130, Article 13B. The
lessee shall remain fully liable for all damages, losses, personal injury or
property damage which may result or arise out of the lessee’s operation of the
facility, and for compliance with regulatory requirements concerning insurance,
bonding for closure and post-closure costs, monitoring and other financial or
health and safety requirements as required by applicable law and regulations.
The State, as lessor, shall be immune from liability except as otherwise
provided by statute. The lease shall be transferrable with the written consent of
the lessor, which consent will not be unreasonably withheld. In the case of such
a transfer of the lease, the transferee shall be subject to all terms and conditions
that the State deems necessary to ensure compliance with applicable laws and
regulations. If the lessee or any successor in interest fails in any material respect
to comply with any applicable law, regulation, or permit condition, or with any
term or condition of the lease, the State may terminate the lease after giving
the lessee written notice specifically describing the failure to comply and upon
providing the lessee a reasonable time to comply. If the lessee does not effect
compliance within the reasonable time allowed, the State may reenter and take
possession of the premises.

(b) Notwithstanding the termination of the lease by either the lessee or the
lessor for any reason, the lessee shall remain liable for, and be obligated to
perform, all acts necessary or required by law, regulation, permit conditions or
the lease for the permanent closure of the site until the site has either been
permanently closed or until a substitute operator has been secured and has
assumed the obligations of the lessee.

(c) In the event of changes in laws or regulations applicable to the facility
which make continued operation by the lessee impossible or economically
infeasible, the lessee shall have the right to terminate the lease upon giving the
State reasonable notice of not less than six months, in which case the lessor shall have the right to secure a substitute lessee and operator.

(d) In the event of termination of the lease by the lessor as provided in subsection (a) of this section, or by the lessee as provided in subsection (c) of this section, the lessee shall be paid the fair market value of any improvements made to the leased premises less the costs to the lessor resulting from termination of the lease and securing a substitute lessee and operator; provided, that the lessor shall have no obligation to secure a substitute lessee or operator and may require the lessee to permanently close the facility."

(2) adding a new section 130-166.17B to read as follows:

"§ 130-166.17B. Limited State preemption.—(a) Notwithstanding any authority heretofore granted to counties, municipalities, or other local authorities to adopt local ordinances, including those regulating land use, any local ordinance which prohibits or has the effect of prohibiting the establishment or operation of a hazardous waste facility or a hazardous waste landfill facility which the Governor’s Waste Management Board and the Governor have approved pursuant to the procedures in subsections (b) and (c) of this section, shall be invalid from the effective date of this amendment, but only to the extent necessary to effectuate the purposes of this Article. For the purpose of this section, the Governor’s Waste Management Board shall include, in addition to the members enumerated in G.S. 143B-216.12(a), two members appointed by the local governing body (1) of the city in which the proposed site is located, or (2) of the county in which the proposed site is located (if the proposed site is outside city limits), as the case may be. The terms of the members appointed by the local governing body shall end upon the final determination made by the Governor under this section.

(b) When a hazardous waste facility would be prevented from construction or operation by a county, municipal, or other local ordinance(s), the developer or operator of the facility may petition the Governor’s Waste Management Board to review the matter. After receipt of a petition, the board shall hold a hearing in accordance with the procedures in subsection (c) of this section and shall recommend to the Governor that he either approve or disapprove the establishment and operation of the facility. After receiving a written recommendation from the board, if the Governor makes the four findings set forth in subsection (c) of this section he shall approve the establishment or operation of the facility. If the Governor does not make all of the four findings set forth in subsection (c) of this section he shall disapprove the establishment or operation of the facility. The Governor shall affirm or disaffirm the findings of the board and may make additional findings. The decision of the Governor shall be final unless a party to the action shall, pursuant to G.S. 7A-29, file a written appeal within 30 days of the date of such decision. The record on appeal shall include all materials and information submitted to or considered by the Governor in accordance with subsection (c) of this section. The scope of judicial review shall be limited to questions of abuse of discretion.

(c) When a petition as described in subsection (b) of this section has been filed with the Governor’s Waste Management Board, the board shall hold a public hearing to consider the petition. Such hearing shall be held in the affected locality in accordance with G.S. 150A, Article 2, within a reasonable time after receipt of the petition by the board. The board shall publish notice of the hearing twice a week for two successive weeks in a newspaper of general
circulation in the county where the proposed site is located. The final notice shall appear at least 15 days but not more than 25 days before the hearing date. Any interested person may appear before the board at the hearing to offer testimony. In addition to testimony before the board, any interested person may submit written material to the board for its consideration. No later than 60 days after the hearing, the board shall present its written recommendation to the Governor to approve or disapprove the facility. Before recommending that the Governor approve the facility, the board must make the following findings:

(1) That the proposed facility is needed in order to establish adequate capability for the management of hazardous waste generated in North Carolina and therefore serves the interests of the citizens of the State as a whole;

(2) That all legally required State and federal permits or approvals have been issued by the appropriate State and federal agencies;

(3) That local citizens and elected officials have had adequate opportunity to participate in the siting process;

(4) That the construction and operation of the facility will not pose an unreasonable health or environmental risk to the surrounding locality and that the facility developer or operator has taken or consented to take any reasonable measures to avoid or manage foreseeable risks and to comply to the maximum feasible extent with any applicable ordinance(s).

The board's written recommendation shall include a complete transcript of the hearing, all written material presented to the board regarding the site location and the specific findings required in this subsection and any minority positions on the recommendation and the specific findings required in this subsection. The Governor shall issue his decision within a reasonable time following receipt of the recommendation from the board and may consider any additional information he deems relevant. The Governor's decision shall be in writing and shall identify the material submitted to him by the board plus any additional materials used in arriving at his decision.

The provisions of this section shall not apply to the siting of a hazardous waste landfill facility until the rules, regulations and standards for the operation of such facilities have been adopted by the appropriate State agencies."

Sec. 6. G.S. 130-166.18 as it now appears in Volume 3B of the North Carolina General Statutes is amended by:

(1) deleting paragraph (a)(3) and substituting the following in lieu thereof:

"Develop and promulgate standards for qualification as a waste 'reycling, reduction or resource recovering facility' or as waste 'reycling, reduction or resource recovering equipment' for the purpose of special tax classifications or treatment, and to certify as qualifying those applicants which meet the established standards. The standards shall be so developed as to qualify only those facilities and equipment exclusively used in the actual waste recycling, reduction or resource recovering process and shall exclude any incidental or supportive facilities and equipment;" and

(2) adding a new paragraph (a)(6) to read as follows:

"The Department is authorized to charge and collect fees from operators of hazardous waste landfill facilities. Such fees shall be used to establish a fund sufficient for each individual facility to defray the anticipated costs to the State
for monitoring and care of the facility after the termination of the period during which the facility operator is required by applicable State and federal statutes or regulations to remain responsible for post-closure monitoring and care. In establishing any such fees, consideration shall be given to the size of the facility, the nature of the hazardous waste and the projected life of the facility."

(3) deleting the second sentence in subsection (c) and substituting the following in lieu thereof:

"Such rules shall establish a complete and integrated regulatory scheme in the area of hazardous waste management and shall provide for;"

(4) substituting a comma for the word "and" in paragraph (c)(1) line 1, and inserting the words "and listing particular hazardous waste" following the word "waste" in line 2.

(5) by adding after the word "responsibility" in line 3 of paragraph (c)(10) the words "(including requirements for sufficient availability of funds for facility closure and post-closure monitoring and corrective measures)."

(6) by adding before the first sentence in subsection (f) the following sentence:

"Within five days of receiving an application for a permit or for an amendment to an existing permit for a hazardous waste facility, the Department shall notify the clerk to the Board of County Commissioners or, if the facility is located within a city, the City Clerk where the facility is proposed to be located."

(7) by rewriting the last sentence in subsection (f) to read as follows:

"Notice and public hearings shall be in accordance with the appropriate federal regulations pursuant to the Resource Conservation and Recovery Act PL 94-580 as amended, and with G.S. 150A. Where the provisions of the federal regulations and G.S. 150A are inconsistent, the federal regulations shall apply."

Sec. 7. Article 13B of Chapter 130 (G.S. 130-166.16 through G.S. 130-166.21F) as it now appears in Volume 3B of the North Carolina General Statutes is hereby amended by (1) adding a new G.S. 130-166.18A to read as follows:

"§ 130-166.18A. Additional requirements for hazardous waste facilities.—An applicant for a permit for a hazardous waste facility shall satisfy the Department that:

(1) Any hazardous waste facility heretofore constructed or operated by the applicant (or any parent or subsidiary corporation if the applicant is a corporation) has been operated in accordance with sound waste management practices and in substantial compliance with federal and State laws and regulations; and

(2) The applicant (or any parent or subsidiary corporation if the applicant is a corporation) is financially qualified to operate the subject hazardous waste facility."

(2) adding a new G.S. 130-166.19A to read as follows:

"§ 130-166.19A. Hazardous Waste Fund.—There is hereby established under the control and direction of the Department of Human Resources a nonreverting Hazardous Waste Fund which shall be available to defray the cost to the State for monitoring and care of hazardous waste landfill facilities after the termination of the period during which the facility operator is required by applicable State and federal statutes or regulations to remain responsible for post-closure monitoring and care. The establishment of this fund shall in no
way be construed to relieve or reduce the liability of facility operators or any persons for damages caused by the facility. The fund shall be maintained by fees collected pursuant to the provisions of G.S. 130-166.18(a)(6)."

(3) amending G.S. 130-166.21B as it now appears in Volume 3B of the North Carolina General Statutes by:

(a) adding the words "or the environment" following the word "health" in subsection (a); and

(b) adding the words "or the environment" after the word "health" in subsection (b).

(4) amending G.S. 130-166.21E as it now appears in Volume 3B of the North Carolina General Statutes by:

(a) deleting the words "five thousand dollars ($5,000)" as they appear in lines 3 and 4 of subsection (b) and substituting the words "ten thousand dollars ($10,000)" in lieu thereof; and

(b) adding a new subsection (g) to read as follows:

"Any person who willfully violates any provisions of this Article or the rules promulgated hereunder pertaining to the management of hazardous waste shall be guilty of a misdemeanor."

Sec. 8. Amendments to Radiation Protection Act. G.S. 104E-5 as it now appears in Volume 2D of the North Carolina General Statutes is hereby amended by adding three new subdivisions to read as follows:

"(9a) 'Low-Level Radioactive Waste' means radioactive waste not classified as high-level radioactive waste or spent nuclear fuel as defined by the U.S. Nuclear Regulatory Commission, transuranic waste, or byproduct material as defined in Section 11(e)(2) of the Atomic Energy Act of 1954, as amended.

(9b) 'Low-Level Radioactive Waste Facility' means a facility for the storage, collection, processing, treatment, recycling, recovery or disposal of low-level radioactive waste.

(9c) 'Low-Level Radioactive Waste Landfill Facility' means any facility or any portion of a facility for disposal of low-level radioactive waste on or in land in accordance with rules promulgated under this Chapter.

(9d) 'Transuranic Waste' means waste containing more than 10 nanoCuries of radioactive materials with atomic numbers of 93 or higher per gram of waste."

Sec. 9. G.S. Chapter 104E as it now appears in Volume 2D of the North Carolina General Statutes is amended by (1) adding a new G.S. 104E-6.1 to read as follows:

"§ 104E-6.1. Conveyance of low-level radioactive waste landfill facility to the State.—(a) No land may be used as a low-level radioactive waste landfill facility until the same simple title to the land has been conveyed to the State of North Carolina. In consideration for such conveyance, the State shall enter into a lease agreement with the grantor for a term equal to the estimated life of the facility in which the State shall be the lessor and the grantor the lessee. Such lease agreement shall specify that for an annual rent of fifty dollars ($50.00), the lessee shall be allowed to use the land great for development and operation of a low-level radioactive waste landfill facility. Such lease agreement shall provide that the lessor or any person authorized by the lessor shall have at all times the right to enter without a search warrant or permission of the lessee upon any and all parts of the premises for monitoring, inspection and all other purposes necessary to carry out the provisions of G.S. Chapter 104E. The lessee shall remain fully liable for all damages, losses, personal injury or property damage.
which may result or arise out of the lessee's operation of the facility, and for compliance with regulatory requirements concerning insurance, bonding for closure and post-closure costs, monitoring and other financial or health and safety requirements as required by applicable law and regulations. The State, as lessor, shall be immune from liability except as otherwise provided by statute. The lease shall be transferrable with the written consent of the lessor, which consent will not be unreasonably withheld. In the case of such a transfer of the lease, the transferee shall be subject to all terms and conditions that the State deems necessary to ensure compliance with applicable laws and regulations. If the lessee or any successor in interest fails in any material respect to comply with any applicable law, regulation, or permit condition, or with any term or condition of the lease, the State may terminate the lease after giving the lessee written notice specifically describing the failure to comply and upon providing the lessee a reasonable time to comply. If the lessee does not effect compliance within the reasonable time allowed, the State may reenter and take possession of the premises.

(b) Notwithstanding the termination of the lease by either the lessee or the lessor for any reason, the lessee shall remain liable for, and be obligated to perform all acts necessary or required by law, regulation, permit conditions or the lease for the permanent closure of the site until the site has either been permanently closed or until a substitute operator has been secured and assumed the obligations of the lessee.

(c) In the event of changes in laws or regulations applicable to the facility which make continued operation by the lessee impossible or economically infeasible, the lessee shall have the right to terminate the lease upon giving the State reasonable notice of not less than six months, in which case the lessor shall have the right to secure a substitute lessee and operator.

(d) In the event of termination of the lease by the lessor as provided in subsection (a) of this section, or by the lessee as provided in subsection (c) of this section, the lessee shall be paid the fair market value of any improvements made to the leased premises less the costs to the lessor resulting from termination of the lease and securing a substitute lessee and operator; provided, that the lessor shall have no obligation to secure a substitute lessee or operator and may require the lessee to permanently close the facility.

(2) adding a new G.S. 104E-6.2 to read as follows:

“§ 104E-6.2. Limited State preemption.—(a) Notwithstanding any authority heretofore granted to counties, municipalities, or other local authorities to adopt local ordinances, including those regulating land use, any local ordinance which prohibits or has the effect of prohibiting the establishment or operation of a low-level radioactive waste facility or a low-level radioactive waste landfill facility which the Governor's Waste Management Board and the Governor have approved pursuant to the procedures in subsections (b) and (c), shall be invalid from the effective date of this amendment, but only to the extent necessary to effectuate the purposes of this Article. For the purpose of this section, the Governor's Waste Management Board shall include, in addition to the members enumerated in G.S. 143B-216.12(a), two members appointed by the local governing body (1) of the city in which the proposed site is located, or (2) of the county in which the proposed site is located (if the proposed site is outside city limits), as the case may be. The terms of the members appointed by the
The decision under Governor disapprove approve the and recommend shall hold shall affirm or discretion.

After receiving a written recommendation from the board, if the Governor makes the four findings set forth in subsection (c) of this section he shall approve the establishment or operation of the facility. If the Governor does not make all of the four findings set forth in subsection (c) of this section he shall disapprove the establishment or operation of the facility. The Governor shall affirm or disapprove the findings of the board and may make additional findings. The decision of the Governor shall be final unless a party to the action shall, pursuant to G.S. 7A-29, file a written appeal within 30 days of the date of such decision. The record on appeal shall include all materials and information submitted to or considered by the Governor in accordance with subsection (c) of this section. The scope of judicial review shall be limited to questions of abuse of discretion.

(c) When a petition as described in subsection (b) of this section has been filed with the Governor's Waste Management Board, the board shall hold a public hearing to consider the petition. Such hearing shall be held in the affected locality in accordance with G.S. 150A, Article 2, within a reasonable time after receipt of the petition by the board. The board shall publish notice of the hearing twice a week for two successive weeks in a newspaper of general circulation in the county where the proposed site is located. The final notice shall appear at least 15 days but not more than 25 days before the hearing date. Any interested person may appear before the board at the hearing to offer testimony. In addition to testimony before the board, any interested person may submit written material to the board for its consideration. No later than 60 days after the hearing, the board shall present its written recommendation to the Governor to approve or disapprove the facility. Before recommending that the Governor approve the facility, the board must make the following findings:

(1) That the proposed facility is needed in order to establish adequate capability for the management of low-level radioactive waste generated in North Carolina and therefore serves the interest of the citizens of the State as a whole;

(2) That all legally required State and federal permits or approvals have been issued by the appropriate State and federal agencies;

(3) That local citizens and elected officials have had adequate opportunity to participate in the siting process;

(4) That the construction and operation of the facility will not pose an unreasonable health or environmental risk to the surrounding locality and that the facility developer or operator has taken or consented to take any reasonable measures to avoid or manage foreseeable risks and to comply to the maximum feasible extent with any applicable ordinances.

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The board's written recommendation shall include a complete transcript of the hearing, all written material presented to the board regarding the site location and the specific findings required in this subsection and any minority positions on the recommendation and the specific findings required in this subsection. The Governor shall issue his decision within a reasonable time following receipt of the recommendation from the board and may consider any additional information he deems relevant. The Governor's decision shall be in writing and shall identify the material submitted to him by the board plus any additional materials used in arriving at his decision."

Sec. 10. G.S. 104E-7, as it now appears in Volume 2D of the North Carolina General Statutes, is hereby amended by adding a new subdivision to read as follows:

"(9) to adopt regulations establishing financial responsibility requirements for maintenance, operation and long-term care of low-level radioactive waste facilities, including insurance during the operation of the facility and adequate assurance of availability of funds for facility closure and post-closure monitoring and corrective measures."

Sec. 10.1. Chapter 104E-9 as it now appears in Volume 2D of the North Carolina General Statutes is amended by adding a new subdivision (8) to read as follows:

"(8) To establish annual fees for activities under this Chapter based on actual administrative costs to be applied to training, enforcement, and inspection pursuant to the provisions of this Chapter and to charge and collect fees from operators of low-level radioactive waste landfill facilities pursuant to the provisions of this Chapter."

Sec. 11. Chapter 104E, as it now appears in Volume 2D of the North Carolina General Statutes, is amended by adding a new G.S. 104E-9(a) to read as follows:

"§ 104E-9(a). Additional requirements for low-level radioactive waste facilities.—(a) An applicant for a permit for a low-level radioactive facility shall satisfy the department that:

(1) Any low-level radioactive waste facility heretofore constructed or operated by the applicant (or any parent or subsidiary corporation if the applicant is a corporation) has been operated in accordance with sound waste management practices and in substantial compliance with federal and State laws and regulations; and

(2) The applicant (or any parent or subsidiary corporation if the applicant is a corporation) is financially qualified to operate the subject low-level radioactive waste facility."

Sec. 11.1. G.S. 104E-10(d) as it now appears in Volume 2D of North Carolina General Statutes is hereby amended by adding before the first sentence the following sentence:

"Within five days of receiving an application for a license or an amendment to a license to operate a low-level radioactive waste facility, the Department shall notify the clerk to the Board of County Commissioners or, if the facility is located within a city, the City Clerk where the facility is proposed to be located."

Sec. 11.2. G.S. 104E-16 as it now appears in Volume 2D of the North Carolina General Statutes is hereby amended by adding an (a) before the first
paragraph and by adding the word "nonreverting" between the words "(a)" and "Radiation", and by adding a new subsection (b) to read as follows:

"(b) All moneys collected from low-level radioactive waste landfills according to the provisions of G.S. 104E-19(b) shall be paid to the fund. Such moneys shall be separately accounted for and shall be available to defray the costs to the State for monitoring and care of low-level radioactive waste landfill facilities after the termination of the period during which the facility operator is required by applicable State and federal statutes and regulations to remain responsible for post-closure monitoring and care. The establishment of this fund shall in no way be construed to relieve or reduce the liability of facility operators or any other persons for damages caused by the facility. The fund shall be maintained by fees collected pursuant to the provisions of G.S. 104E-19(b)."

Sec. 12. G.S. 104E-18, as it now appears in Volume 2D of the North Carolina General Statutes, is hereby amended by deleting "or" in the second sentence and by inserting after "possess" in the same sentence the words "or dispose of".

Sec. 13. G.S. 104E-19, as it now appears in Volume 2D of the North Carolina General Statutes, is amended by adding an "(a)" before the first paragraph, deleting in line 5 the word "Commission" and substituting the word "it", and adding the following new subsection (b):

"(b) The Department is authorized to charge and collect fees from operators of low-level radioactive waste landfill facilities. Such fees shall be used to establish a fund sufficient for each individual facility to defray the anticipated costs to the State for monitoring and care of the facility after the termination of the period during which the facility operator is required by applicable State and federal statutes or regulations to remain responsible for post-closure monitoring and care. In establishing any such fees, consideration shall be given to the size of the facility, the nature of the low-level radioactive waste and the projected life of the facility."

Sec. 14. Chapter 104E, as it now appears in Volume 2D of the North Carolina General Statutes, is amended by adding a new G.S. 104E-24 to read as follows:

"§ 104E-24. Administrative penalties.—(a) The Department may impose an administrative penalty on any person:

(1) who fails to comply with this Chapter, any order issued hereunder, or any rules adopted pursuant to this Chapter;

(2) who refuses to allow an authorized representative of the Radiation Protection Commission or the Department of Human Resources a right of entry as provided for in G.S. 104E-11 or impounding materials as provided for in G.S. 104E-14.

(b) Each day of a continuing violation shall constitute a separate violation. Such penalty shall not exceed ten thousand dollars ($10,000) per day. In determining the amount of the penalty, the Department shall consider the degree and extent of the harm caused by the violation. Any person assessed a penalty shall be notified of the assessment by registered or certified mail, and the notice shall specify the reasons for the assessment.

(c) Any person wishing to contest a penalty or order issued under this section shall be entitled to an administrative hearing and judicial review in accordance with the procedures outlined in G.S. 150A-23 through 150A-52.
(d) The Secretary may bring a civil action in the Superior Court of the county in which such violation is alleged to have occurred to recover the amount of administrative penalty whenever a person:

(1) Who has not requested an administrative hearing fails to pay the penalty within 60 days after being notified of such penalty, or

(2) Who has requested an administrative hearing fails to pay the penalty within 60 days after service of a written copy of the decision as provided in G.S. 150A-36."

Sec. 15. Privilege License Tax. G.S. 160A-211 as it now appears in Volume 3D of the North Carolina General Statutes is amended by adding a new G.S. 160A-211.1 to read as follows:

"§160A-211.1. Low-Level Radioactive and Hazardous Wastes Facilities.—(a) Cities in which hazardous waste facilities as defined in G.S. 130-166.16(5) or low-level radioactive waste facilities as defined in 104E-7(9b) are located may levy an annual privilege license tax on persons or firms operating such facilities only in accordance with this section.

(b) The rate or rates of a tax levied under authority of this section shall be in an amount calculated to compensate the city for the additional costs incurred by it from having a hazardous waste facility or a low-level radioactive waste facility located in its jurisdiction, which costs may include the loss of ad valorem property tax revenues from the property on which a facility is located, the cost of providing any additional emergency services, the cost of monitoring air, surface water, ground water, and other environmental media to the extent other monitoring data is not available, and other costs the municipality established as being associated with the facilities and for which it is not otherwise compensated.

(c) Any person or firm taxed pursuant to this section may appeal the tax rate to the board, but shall pay the tax when due, subject to a refund when the appeal is resolved by the board or in the courts."

Sec. 16. G.S. Chapter 153A as it now appears in Volume 3C of the North Carolina General Statutes is amended by adding a new G.S. 153A-152.1 as follows:

"§153A-152.1. Low-Level Radioactive and Hazardous Wastes Facilities.—(a) Counties in which hazardous waste facilities as defined in G.S. 130-166.16(5) or low-level radioactive waste facilities as defined in 104E-7(9b) are located may levy an annual privilege license tax on persons or firms operating such facilities only in accordance with this section.

(b) The rate or rates of a tax levied under authority of this section shall be in an amount calculated to compensate the county for the additional costs incurred by it from having a hazardous waste facility or a low-level radioactive waste facility located in its jurisdiction, which costs may include the loss of ad valorem property tax revenues from the property on which a facility is located, the cost of providing any additional emergency services, the cost of monitoring air, surface water, ground water, and other environmental media to the extent other monitoring data is not available, and other costs the county establishes as being associated with the facilities and for which it is not otherwise compensated.

(c) Any person or firm taxed pursuant to this section may appeal the tax rate to the board, but shall pay the tax when due, subject to a refund when the appeal is resolved by the board or in the courts."
Sec. 17. Tax Incentive Amendments. G.S. 105-147(13)b, as it now appears in Volume 2D of the North Carolina General Statutes is hereby amended by adding after the word “waste” at the end of the first sentence the following phrase:

"or for the purpose of reducing the volume of hazardous waste generated."

Sec. 18. G.S. 105-122(b) as it now appears in Volume 2D of the North Carolina General Statutes is hereby amended by adding after the word “waste” on line 29 the following phrase:

"or for the purpose of reducing the volume of hazardous waste generated."

Sec. 19. G.S. 105-130.10(2) as it now appears in Volume 2D of the North Carolina General Statutes is hereby amended by adding after the word “waste” at the end of the first sentence the following phrase:

"or for the purpose of reducing the volume of hazardous waste generated."

Sec. 20. G.S. 105-130.5(b)(6) as it now appears in Volume 2D of the North Carolina General Statutes is rewritten to read as follows:

"Amortization in excess of depreciation allowed for federal income tax purposes on the cost of any sewage or waste treatment plant, and facilities or equipment used for purposes of recycling or resource recovery of or from solid waste, or for purposes of reducing the volume of hazardous waste generated as provided in G.S. 105-130.10."

Sec. 21. Amendment to Utilities Commission Authority Related to Hazardous Waste. G.S. 62-281 as it now appears in Volume 2B of the North Carolina General Statutes is hereby amended by:

(1) adding the following at the end of subsection (a):

"It is the intent of the General Assembly that regulations governing the transportation of hazardous waste and radioactive waste conform as nearly as possible to federal regulations established for the same purposes."

(2) adding a new subsection (b) to read as follows:

"The Utilities Commission is hereby authorized to promulgate highway safety rules and regulations for all private motor carriers engaged in the transportation of hazardous waste and radioactive waste in interstate and intrastate commerce over the highways of North Carolina. It is the intent of the General Assembly that such regulations conform as nearly as possible to federal regulations established for the same purposes."

Sec. 22. Industrial Revenue Bond Amendments. G.S. 159C-7, as it now appears in Volume 3D of the North Carolina General Statutes, is amended by:

(1) denoming the current subdivision (3) as subdivision (4) and inserting a new subdivision (3) to read as follows:

"In the case of a hazardous waste facility or low-level radioactive waste facility which is used as a reduction, recovery or recycling facility, that such project will further the waste management goals of North Carolina and will not have an adverse effect upon public health or a significant adverse effect on the environment."

(2) inserting the following sentence after the first sentence of the third unnumbered paragraph:

"In no case shall the Secretary of Commerce make the findings required by subdivision (3) unless he shall have first received a certification from the Department of Human Resources that the proposed project is environmentally sound, will not have an adverse effect on public health and will further the waste management goals of North Carolina."
Sec. 23. State Acquisition of Land. G.S. 146-22.1, as it now appears in Volume 3C of the North Carolina General Statutes, is hereby amended by adding a new subdivision to read as follows:

“(14) Lands necessary for the construction of hazardous waste facilities as defined in G.S. 130-166.16(5) and lands necessary for the construction of low-level radioactive waste facilities as defined in G.S. 104E-5(9b).”

Sec. 24. G.S. 130-166.16 as it now appears in the General Statutes is hereby amended by adding a new G.S. 130-166.18B to read as follows:

“§ 130-166.18B. It is the intent of the General Assembly to prescribe a uniform system for the management of hazardous waste and to place limitations upon the exercise by all units of local government in North Carolina of the power to regulate the management of hazardous waste by means of special, local, or private acts or resolutions, ordinances, property restrictions, zoning regulations, or otherwise, as provided in G.S. 143B-216.10(b).”

Sec. 25. G.S. 104E-21 as it now appears in Volume 2D of the North Carolina General Statutes is hereby amended by adding an (a) before the first paragraph and by adding a new subsection (b) to read as follows:

“(b) It is the intent of the General Assembly to prescribe a uniform system for the management of low-level radioactive waste and to place limitations upon the exercise by all units of local government in North Carolina of the power to regulate the management of low-level radioactive waste by special, local or private acts or resolutions as provided in G.S. 143B-216.10(b).”

Sec. 26. This act shall be liberally construed to carry out the policies set forth in the act.

Sec. 27. If any provision of this act or the application thereof to any person or circumstances is held to be invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application and to this end the provisions of this act are severable.

Sec. 28. G.S. 7A-29 is amended on line 5 by inserting after “G.S. 58-9.4” and before the “,” the following:

“or from the Governor pursuant to the Waste Management Act of 1981, G.S. 130-166.17B and G.S. 104E-6.2”.

Sec. 28.1. G.S. 130-166.21D(b) is amended to read:

“(b) The solid waste management program concerning hazardous waste maintained by the State under this Article shall be no more comprehensive than the hazardous waste program prescribed under the federal act. The rules and standards concerning hazardous waste promulgated under this Article shall be no more stringent than those rules, regulations and standards promulgated under the federal act; provided, that in establishing acceptable water table levels, location in relation to water supplies and population centers and appropriate buffer zones, the rules and standards promulgated under this Article shall be at least as comprehensive and may be more comprehensive than the hazardous waste program prescribed under the federal act.”

Sec. 29. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1981.

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AN ACT TO PROVIDE THAT ACTIONS TO CONTEST THE VALIDITY OF A COUNTY ZONING ORDINANCE MUST BE BROUGHT WITHIN NINE MONTHS OF ADOPTION OF THE ORDINANCE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 1 of the General Statutes is amended by inserting therein a new section as follows:

§ 1-54.1. Nine months.—Within nine months an action contesting the validity of any zoning ordinance or amendment thereto adopted by a county under Part 3 of Article 18 of Chapter 153A of the General Statutes or other applicable law.

Sec. 2. Chapter 153A of the General Statutes is amended by inserting therein a new section as follows:

§ 153A-348. Statute of limitations.—A cause of action as to the validity of any zoning ordinance, or amendment thereto, adopted under this Part or other applicable law shall accrue upon adoption of the ordinance, or amendment thereto, and shall be brought within nine months as provided in G.S. 1-54.1.

Sec. 3. This act shall not affect pending litigation.

Sec. 4. A cause of action as to the validity of any zoning ordinance, or amendment thereto, adopted under Article 18, Part 1 of G.S. Chapter 153A or other applicable law, enacted prior to the effective date of this act shall be brought within nine months of the effective date of this act.

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1981.

AN ACT TO REQUIRE CONTINUATION AND CONVERSION PRIVILEGES IN GROUP HEALTH INSURANCE POLICIES AND PLANS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 58 of the General Statutes is amended by adding a new Article to read:

“ARTICLE 26C.

Group Health Insurance Continuation and Conversion Privileges.


§ 58-254.40. Definitions.—As used in this Article, the following terms have the meanings specified:

(1) 'Group policy' means a group accident and health insurance policy issued by an insurance company and a group contract issued by a health service corporation or health maintenance organization or similar corporation or organization.

(2) 'Individual policy' or 'converted policy' means an individual health insurance policy issued by an insurance company or an individual health services contract issued by a health service corporation or health maintenance organization or similar corporation or organization.
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(3) 'Insurance' and 'insured' refer to coverage under a group policy, individual policy or converted policy on a premium-paying basis, and do not include coverage provided by reason of a disability extension.

(4) 'Insurer' means the entity issuing a group policy or an individual or converted policy.

(5) 'Medicare' means Title XVIII of the United States Social Security Act as added by the Social Security Amendments of 1965 or as later amended or superseded.

(6) 'Premium' includes any premium or other consideration payable for coverage under a group or individual policy.

(7) 'Reasonable and customary' means the most frequently used level of charge made for the supplies or for a specific service in the geographic sub-area in which such supplies or services are received, of like kind or by physicians, or other practitioners, with similar qualifications.

"§ 58-254.41. Continuation of group hospital, surgical, and major medical coverage after termination of employment or membership.—A group policy delivered or issued for delivery in this State which insures employees or members, other than the members and their dependents, if they have elected to include them, whose eligibility under the group policy does not extend to any employee(s) the insured may have for hospital, surgical or major medical insurance on an expense incurred or service basis under Chapters 57, 57B, and 58 of the General Statutes, other than for specific diseases or for accidental injuries only, shall provide that employees or members whose insurance for these types of coverage under the group policy would otherwise terminate because of termination of active employment or membership, or termination of membership in the eligible class or classes under the policy, shall be entitled to continue their hospital, surgical, and medical insurance under that group policy, for themselves and their eligible dependents with respect to whom they were insured on the date of termination, subject to all of the group policy's terms and conditions applicable to those forms of insurance and to the conditions specified in this Part. Provided, the terms and conditions set forth in this Part are intended as minimum requirements and shall not be construed to impose additional or different requirements upon those group hospital, surgical, or major medical plans already in force, or hereafter placed into effect, that provide continuation benefits equal to or better than those required in this Part.

"§ 58-254.42. Eligibility.—Continuation shall only be available to an employee or member who has been continuously insured under the group policy, or for similar benefits under any other group policy that it replaced, during the period of three consecutive months immediately prior to the date of termination.

"§ 58-254.43. Exception.—Continuation shall not be available for any person who is or could be covered by any other arrangement of hospital, surgical, or medical coverage for individuals in a group, whether insured or uninsured, within 31 days immediately following the date of termination; or whose insurance terminated because he failed to pay any required contribution for the insurance.

"§ 58-254.44. Benefits not included.—Continuation is not required to include dental, vision care, or prescription drug benefits, or any other benefits provided

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under the group policy in addition to its hospital, surgical, or major medical benefits.

"§58-254.45. Notification to employee.—In addition to the notification requirement set forth in G.S. 58-254.48, notification may be included on insurance identification cards or may be given by the employer, orally or in writing as a part of the exit process from the employment.

"§58-254.46. Payment of premiums.—An employee or member electing continuation must pay to the group policyholder or his employer, in advance, the amount of contribution required by the policyholder or employer, but not more than the full group rate for the insurance applicable under the group policy on the due date of each payment. The employee or member may not be required to pay the amount of the contribution less often than monthly. In order to be eligible for continuation of coverage, the employee or member must make a written election of continuation, on a form furnished by the group policyholder, and pay the first contribution, in advance, to the policyholder or employer on or before the date on which employee’s or member’s insurance would otherwise terminate.

"§58-254.47. Termination of continuation.—Continuation of insurance under the group policy for any person shall terminate on the earliest of the following dates:

(1) The date three months after the date the employee’s or member’s insurance under the policy would otherwise have terminated because of termination of employment or membership;

(2) The date ending the period for which the employee or member last makes his required contribution, if he discontinues his contributions;

(3) The date the employee or member becomes or is eligible to become covered for similar benefits under any arrangement of coverage for individuals in a group, whether insured or uninsured;

(4) The date on which the group policy is terminated or, in the case of a multiple employer plan, the date his employer terminates participation under the group master policy. When this occurs the employee or member shall have the privilege described in G.S. 58-254.49 if the date of termination precedes that on which his actual continuation of insurance under that policy would have terminated.

"§58-254.48. Notification.—A notification of the continuation privilege shall be included in each individual certification of coverage.

"Part 2. Conversion.

"§58-254.49. Right to obtain individual policy upon termination of group hospital, surgical or major medical coverage.—A group policy delivered or issued for delivery in this State that insures employees or members for hospital, surgical, or medical insurance on an expense incurred or service basis under General Statutes Chapters 57, 57B, and 58, other than for specific diseases or for accidental injuries only, shall provide that an employee or member whose insurance under the group policy has been terminated shall be entitled to have a converted policy issued to him by the insurer under whose group policy he was last insured, without evidence of insurability, subject to the terms and conditions specified in this Part. Provided, the terms and conditions set forth in this Part are intended as minimum requirements and shall not be construed to impose additional or different requirements upon those group hospital, surgical,
or major medical plans already in force, or hereafter placed into effect, that provide conversion benefits equal to or better than those required in this Part.

"§ 58-254.50. Restrictions.—A converted policy shall not be available to an employee or member if termination of his insurance under the group policy occurred because:

(1) Of termination of employment or membership and either he was not entitled to continuation of group coverage under Part 1 of this Article or failed to elect such continuation;

(2) He failed to make timely payment of any required contribution for the cost of continuation of insurance;

(3) He had not been continuously covered under the group policy or for similar benefits under any other group policy that it replaced during the period of three consecutive months immediately prior to termination of active employment ending with such termination;

(4) The group policy terminated or an employer's participation terminated, and the insurance is replaced by similar coverage under another group policy within 31 days of date of termination; or

(5) He failed to continue his insurance for the entire maximum period of three consecutive months following termination of active employment as provided for in Part 1 of this Article.

"§ 58-254.51. Time limit.—In order to be eligible for conversion, written application and the first premium payment for the converted policy must be made to the insurer not later than 31 days after the date of termination of insurance provided under Part 1 of this Article. The effective date of the converted policy shall be the day following the later of:

(1) The termination of insurance under the group policy when it is not replaced by one providing similar coverage within 31 days of the termination date of the immediately prior group plan; or

(2) The termination of the three months of continued coverage under the group policy or policies.

"§ 58-254.52. Premium.—(a) The premium for the converted policy shall be determined in accordance with the insurer's table of premium rates applicable to the age and class of risk to be covered under that policy and to the type and amount of insurance provided.

(b) All insurers licensed to do business in this State, who issue conversion policies under this Part, shall have the right to increase that element of the premium that applies to hospital room and board benefit increases provided for in G.S. 58-254.59(5) by an amount proportionate to the increase promulgated by the Commissioner. Such premium increases shall be filed with the Commissioner.

(c) All premium rates and adjustments to premium rates for converted policies shall be reasonable and must be filed with the Commissioner prior to use. A premium rate shall be deemed to be reasonable if it can be demonstrated by the insurer that the premium charged is expected to produce an incurred loss ratio to earned premiums of not less than sixty percent (60%) for all individual policies providing similar benefits offered and issued by the insurer. If an insurer experiences an incurred loss ratio of greater than eighty percent (80%) for all such policies, it shall be deemed reasonable for that insurer to increase premium rates to a level that will produce a prospective incurred loss ratio of no greater than eighty percent (80%), and the insurer shall file such new rates with
the Commissioner: Provided, however, that such action may be taken by the insurer at intervals not more frequently than two years, the first of which shall be no earlier than January 1, 1984.

"§58-254.53. Coverage.—The converted policy shall cover the employee or member and his eligible dependents who were covered by the group policy on the date of termination of insurance. At the option of the insurer, a separate converted policy may be issued to cover any such eligible dependent.

"§58-254.54. Exclusions.—The insurer shall not be required to issue a converted policy covering any person if such person is or can be covered by Medicare. Furthermore, the insurer shall not be required to issue a converted policy covering any person if:

(1) a. Such person is covered for similar benefits by another hospital, surgical, medical or major medical expense insurance policy, or hospital or medical service subscriber contract or medical practice or other prepayment plan, or by any other plan or program;

b. Such person is or could be covered for similar benefits, whether or not covered for such benefits, under any arrangement of coverage for individuals in a group, whether insured or uninsured; or

c. Similar benefits are provided for or available to such person, whether or not covered for such benefits, by reason of any State or federal law; and

(2) The benefits under sources of the kind referred to in subdivision (1)a. of this section for such person, or benefits provided or available under sources of the kind referred to in subdivisions (1)b. and (1)c. of this section for such person, together with the converted policy’s benefits would result in overinsurance according to the insurer’s standards for overinsurance.

"§58-254.55. Information.—A converted policy may provide that the insurer may at any time request information of the insured policyholder with respect to any person covered thereunder as to whether he is covered for the similar benefits described in G.S. 58-254.54(1)a. or is or could be covered for the similar benefits described in G.S. 58-254.54(1)b. and G.S. 58-254.54(1)c. The converted policy may provide that as of any premium due date the insurer may refuse to renew the policy or the coverage of any insured person for the following reasons only:

(1) Either those similar benefits for which such person is or could be covered, together with the converted policy’s benefits, would result in overinsurance according to the insurer’s standards for overinsurance, or the policyholder of the converted policy fails to provide the requested information;

(2) Fraud or material misrepresentation in applying for any benefits under the converted policy; or

(3) Eligibility of any insured person for coverage under Medicare, or under any other State or federal law providing benefits substantially similar to those provided by the converted policy.

"§58-254.56. Excess benefits.—An insurer shall not be required to issue a converted policy providing benefits in excess of the equivalent value of hospital, surgical, or major medical insurance under the group policy from which conversion is made.

"§58-254.57. Preexisting conditions.—The converted policy shall not exclude, as a preexisting condition, any condition covered by the group policy. However, the converted policy may provide for a reduction of its hospital, surgical or medical benefits by the amount of any such benefits payable under the group
policy after the individual’s insurance terminates thereunder. The converted policy may also provide that during the first policy year the benefits payable under the converted policy, together with the benefits payable under the group policy, shall not exceed those that would have been payable had the individual’s insurance under the group policy remained in force and effect.

“§ 58-254.58. Basic coverage plans.—(a) Subject to the provisions of this Article, if the group insurance policy from which conversion is made insures the employee or member for basic hospital and surgical expense insurance, the employee or member shall be entitled to obtain a converted policy providing, at his option, coverage on an expense incurred basis under any of the following plans:

(1) Plan A:
   (i) Hospital room and board daily expense benefits in a maximum dollar amount approximating the average semi-private rate charged in the major metropolitan area of this State, for a maximum duration of 70 days;
   (ii) Miscellaneous hospital expense benefits up to a maximum amount of 10 times the hospital room and board daily expense benefits; and
   (iii) Surgical expense benefits according to a surgical procedures schedule consistent with those customarily offered by the insurer under group or individual health insurance policies and providing a maximum benefit of eight hundred dollars ($800.00).

(2) Plan B:
   Identical to Plan A, except that (i) the maximum hospital room and board daily expense benefit is seventy-five percent (75%) of the corresponding Plan A maximum and (ii) the surgical schedule maximum is six hundred dollars ($600.00).

(3) Plan C:
   Identical to Plan A, except that (i) the maximum hospital room and board daily expense benefit is fifty percent (50%) of the corresponding Plan A maximum and (ii) the surgical schedule maximum is four hundred dollars ($400.00).

(b) The maximum dollar amount for the maximum hospital room and board daily expense benefit of Plan A shall be determined by the Commissioner and may be redetermined by him from time to time as to converted policies issued subsequent to such redetermination. Such redetermination shall not be made more often than once in three years. The Plan A maximum, and the corresponding maximums in Plans B and C, shall be rounded to the nearest multiple ten dollars ($10.00), provided that rounding may be to the next higher or lower multiple of ten dollars ($10.00) if otherwise exactly midway between.

“§ 58-254.59. Major medical plans.—Subject to the provisions of this Article, if the group policy from which conversion is made insures the employee or member for major medical expense insurance, the employee or member shall be entitled to obtain a converted policy providing catastrophic or major medical coverage under a plan meeting the following requirements:

(1) A maximum benefit at least equal to either, at the option of the insurer,
   (i) A maximum payment per covered person for all covered medical expenses incurred during that person’s lifetime, equal to the lesser of the maximum benefit provided under the group policy or one hundred thousand dollars ($100,000); or
(ii) A maximum payment for each unrelated injury or sickness, equal to the lesser of the maximum benefit provided under the group policy or one hundred thousand dollars ($100,000).

(2) Payment of benefits at the rate of eighty percent (80%) of covered medical expenses that are in excess of the deductible, until twenty percent (20%) of such expenses in a benefit period reaches one thousand dollars ($1,000), after which benefits will be paid at the rate of one hundred percent (100%) during the remainder of such benefit period. Payment of benefits for outpatient treatment of mental illness, if provided in the converted policy, may be at a lesser rate but not less than fifty percent (50%).

(3) A deductible for each benefit period which, at the option of the insurer, shall be (i) the sum of the benefits deductible and one hundred dollars ($100.00), or (ii) the corresponding deductible in the group policy. The term 'benefits deductible', as used in this Part, means the value of any benefits provided on an expense incurred basis that are provided with respect to covered medical expenses by any other group or individual hospital, surgical, or medical insurance policy or medical practice or other prepayment plan, or any other plan, or program whether insured or uninsured, or by reason of any State or federal law and if, pursuant to G.S. 58-254.60, the converted policy provides both basic hospital or surgical coverage and major medical coverage, the value of such basic benefits.

If the maximum benefit is determined by subdivision (1)(i) of this section, the insurer may require that the deductible be satisfied during a period of not less than three months if the deductible is one hundred dollars ($100.00) or less, and not less than six months if the deductible exceeds one hundred dollars ($100.00).

(4) The benefit period shall be each calendar year when the maximum benefit is determined by subdivision (1)(i) of this section or 24 months when the maximum benefit is determined by subdivision (1)(ii) of this section.

(5) The term 'covered medical expenses', as used in this Part, shall include, in the case of hospital room and board charges, at a minimum the lesser of the dollar amount in G.S. 58-254.58(a)(1) and the average semiprivate room and board rate for the hospital in which the individual is confined, and at a minimum twice such amount for charges in an intensive care unit. Any surgical procedures schedule shall be consistent with those customarily offered by the insurer under group or individual health insurance policies and must provide at least a one thousand two hundred dollar ($1,200) maximum.

§ 58-254.60. Alternative plans.—At the option of the insurer, such plans of benefits set forth in G.S. 58-254.58 and G.S. 58-254.59 may be provided under one policy. Instead of providing the plans of benefits set forth in G.S. 58-254.58 and G.S. 58-254.59, the insurer may elect to provide a policy of comprehensive medical expense benefits without first dollar coverage. Said policy shall conform to the requirements of G.S. 58-254.59; provided, however, that an insurer electing to provide such a policy shall make available the following deductible options: one hundred dollars ($100.00), five hundred dollars ($500.00), and one thousand dollars ($1,000). Alternatively, such a policy may provide for deductible options equal to the greater of the benefits deductible and the amount specified in the preceding sentence.

§ 58-254.61. Insurer option.—The insurer may, at its option, offer alternative plans for group health conversion in addition to those required by this Part. Furthermore, if any insurer customarily offers individual policies on
a service basis, that insurer may, in lieu of converted policies on an expense incurred basis, make available converted policies on a service basis which, in the opinion of the Commissioner satisfy the intent of this Part.

"§ 58-254.62. Other conversion provisions.—(a) If coverage would in any event have been continued under the group policy on an employee following his retirement prior to the time he is or could be covered by Medicare and provided he would have been eligible for continuation under the group policy as specified in G.S. 58-254.42, the employee or member may elect, in lieu of such continuation of group insurance, to have the same conversion rights as would apply had that insurance terminated at retirement.

(b) The converted policy may provide for reduction or termination of coverage of any person upon his eligibility for coverage under Medicare or under any other State or federal law providing for benefits similar to those provided by the converted policy.

(c) Subject to the conditions set forth in this subsection, the conversion privilege shall also be available (i) to the surviving spouse, if any, at the death of the employee or member, with respect to the spouse and any eligible children whose coverage under the group policy terminates by reason of such death, or if the group policy provides for continuation of dependents' coverage following the employee's or member's death, at the end of such continuation, or (ii) to the spouse of the employee or member upon termination of coverage of the spouse because the spouse becomes ineligible, while the employee or member remains insured under the group policy, with respect to the spouse and such children whose coverage under the group policy terminates at the same time, or (iii) to a child solely with respect to himself upon termination of his coverage by reason of ceasing to be an eligible family member under the group policy, if a conversion privilege is not otherwise provided above with respect to such termination.

(d) The insurer may elect to provide group insurance coverage in lieu of the issuance of a converted individual policy, notwithstanding the maximum period of group continuation specified in G.S. 58-254.47(1).

(e) A notification of the conversion privilege shall be included in each certificate of coverage.

(f) A converted policy which is delivered outside this State may be on a form which could be delivered in such other jurisdiction as a converted policy had the group policy been issued in that jurisdiction."

Sec. 2. This act shall apply only to group policies delivered, issued for delivery, or amended on or after the effective date of this act. The provisions of this act shall not apply to hospital, surgical or major medical plans offered by employers on a self-insured basis.

Sec. 3. This act shall become effective January 1, 1982.

In the General Assembly read three times and ratified, this the 26th day of June, 1981.
H. B. 1018  CHAPTER 707
AN ACT TO AUTHORIZE PHYSICIAN EXTENDERS TO PERFORM PHYSICAL EXAMINATIONS OF PRISON INMATES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 148-19(c) is amended by deleting the words, "competent physician", in the first sentence and inserting in lieu thereof the following words:

"health care professional authorized by the Board of Medical Examiners to perform such examinations".

Sec. 2. G.S. 148-19(c) is further amended by deleting the words, "the report of the physician as to", in the second sentence.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1981.

S. B. 640  CHAPTER 708
AN ACT TO REPEAL A LOCAL ACT CONCERNING A VACANCY IN THE OFFICE OF YADKIN COUNTY SHERIFF.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 199, Session Laws of 1981, is amended by deleting the words "and Yadkin", and by adding the word "and" immediately before the word "Iredell".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1981.

S. B. 642  CHAPTER 709
AN ACT TO PROHIBIT HUNTING ON THE RIGHT-OF-WAY OF AND SHOOTING ACROSS SR-1600 IN CRAVEN COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It is unlawful to hunt from the right-of-way of State Road 1600, also known as Broad Creek Road, east of North Carolina Highway 55 to the terminus of said road near Broad Creek.

Sec. 2. It is unlawful to shoot across State Road 1600 also known as Broad Creek Road, east of North Carolina Highway 55 to the terminus of said road near Broad Creek.

Sec. 3. The Wildlife Resources Commission, or its designee, shall post this right-of-way to advise the hunting public of the restrictions in Sections 1 and 2.

Sec. 4. Violation of this act is a misdemeanor punishable by a fine of not more than fifty dollars ($50.00).

Sec. 5. This act applies only to Craven County.

Sec. 6. This act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 26th day of June, 1981.
S. B. 660

CHAPTER 710

AN ACT AUTHORIZING THE TOWN OF BEAUFORT TO REGULATE NAVIGABLE WATERS WITHIN ITS BOUNDARIES.

The General Assembly of North Carolina enacts:

Section 1. The Town of Beaufort is empowered to make, adopt and enforce ordinances for the navigable waters within its municipal limits as they presently exist and as the municipal limits may be extended by law in the future, as to:

(1) operation of boats and vessels, including restrictions concerning speed zone, no-wake zones, and types of activities conducted on the navigable waters within the municipal limits of the Town of Beaufort;

(2) to restrict the anchoring of boats and vessels as to location and generally to regulate the anchoring of vessels within its navigable waters;

(3) to place and maintain channel aids and markers, anchoring aids and markers, and navigational aids and markers in conformity with the Uniform State Marking System as adopted for use on the waters of North Carolina pursuant to G.S. 75A-15(c);

(4) to make all reasonable rules and regulations as it deems necessary for the safe and proper use of the navigable waters within the municipal limits of the Town of Beaufort for the occupants of boats and vessels, swimmers, fishermen, and others using said waters;

(5) to provide for enforcement of ordinances adopted by the Town of Beaufort under this act in accordance with G.S. 160A-175.

Sec. 2. In case any rules or regulations of the North Carolina Wildlife Commission, the U. S. Coast Guard, or the U. S. Army Corps of Engineers shall expressly conflict with ordinances adopted by the town under the authority of this act, then the State or federal rule or regulation shall prevail over the town ordinance to the extent of the conflict.

Sec. 3. The Town of Beaufort may appropriate funds to carry out the power and authority granted by this act.

Sec. 4. Law officers of the Beaufort Police Department shall have the authority to enforce the ordinances adopted by the Town of Beaufort pursuant to this act. The Town of Beaufort is further authorized to appoint one or more special or auxiliary officers who shall have the authority to enforce the ordinances adopted by the Town of Beaufort pursuant to this act. Those special or auxiliary officers appointed by the Town of Beaufort shall take the oath required for regular police officers, and shall be entitled to all powers, privileges and immunities afforded by law to regularly employed law enforcement officers of the Town of Beaufort including benefits under the workers' compensation act.

Sec. 5. If any part or parts of this act shall be held to be unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this act.

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1981.

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S. B. 673

CHAPTER 711

AN ACT TO INCREASE THE ALLOWABLE NUMBER OF TRUSTEES OF REX HOSPITAL AND TO ALTER THE METHOD OF APPOINTMENT OF SAID TRUSTEES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 6, Private Laws of North Carolina 1840-1841, as amended by Chapter 98, Public-Local Laws of North Carolina 1939, as amended by Chapter 361 of Session Laws of 1973, is further amended by rewriting Section II to read:

"The number of trustees constituting the "Trustees of Rex Hospital" shall be at least seven and no more than 11. If the Board of Trustees of Rex Hospital shall determine that more than seven but no more than 11 trustees are needed, the additional trustees shall be appointed in the same manner as herein provided for the filling of vacancies. When any vacancy or vacancies may happen by death, resignation, or failure to remain a resident of the County of Wake, of any trustee or trustees or from any other cause, his or their places shall be filled from a nomination or nominations by the Board of Trustees of Rex Hospital submitted to the City Council of the City of Raleigh which shall appoint the trustee or trustees with the approval of the Senior Resident Judge of the Superior Court of Wake County."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1981.

S. B. 674

CHAPTER 712

AN ACT TO ADD THE TOWN OF MARSHALL TO CHAPTER 1190, SESSION LAWS OF 1979.

Whereas, the Congress of the United States enacted the Housing and Community Development Act of 1977 (Public Law 95-128) authorizing the Secretary of Housing and Urban Development to make Urban Development Action Grants to cities and towns which require increased public assistance and private investment to alleviate physical and economic deterioration; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 1190, Session Laws of 1979 (Second Session, 1980) is amended by adding immediately after the comma following the words "Fuquay-Varina" the words and punctuation "the Town of Marshall,":

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1981.
CHAPTER 713  Session Laws—1981

S. B. 520  CHAPTER 713

AN ACT TO INCORPORATE SECTION 1008 OF CHAPTER X OF VOLUME 1 BUILDING CODE, TITLED "SPECIAL SAFETY TO LIFE REQUIREMENTS APPLICABLE TO EXISTING HIGH-RISE BUILDINGS" INTO THE GENERAL STATUTES OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-138 is hereby amended by adding a new subsection as follows:

"(i) Section 1008 of Chapter X of Volume 1 of the North Carolina State Building Code, Title 'Special Safety to Life Requirements Applicable to Existing High-Rise Buildings' as adopted by the North Carolina State Building Code Council on March 9, 1976, as ratified and adopted as follows:

SECTION 1008-SPECIAL SAFETY TO LIFE REQUIREMENTS APPLICABLE TO EXISTING HIGH-RISE BUILDINGS

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(a) Applicability. Within a reasonable time, as fixed by 'written order' of the building official, and except as otherwise provided in subsection (j) of this section every building the existing, that qualifies for classification under Table 1008.1 shall be considered to be a high-rise building and shall be provided with safety to life facilities as hereinafter specified. All other buildings shall be considered as low-rise. NOTE: The requirements of Section 1008 shall be considered as minimum requirements to provide for reasonable safety to life requirements for existing buildings and where possible, the owner and designer should consider the provisions of Section 506 applicable to new high-rise buildings.

(b) Notification of Building Owner. The Department of Insurance will send copies of amendments adopted to all local building officials with the suggestion that all local building officials transmit to applicable building owners in their jurisdiction copies of adopted amendments, within six months from the date the amendments are adopted, with the request that each building owner respond to the local building official how he plans to comply with these requirements within a reasonable time.

NOTE: Suggested reasonable time and procedures for owners to respond to the building official's request is as follows:

(1) The building owner shall, upon receipt of written request from the building official on compliance procedures within a reasonable time, submit an overall plan required by 1008(c) below within one year and within the time period specified in the approved overall plan, but not to exceed five years after the overall plan is approved, accomplish compliance with this section, as evidenced by completion of the work in accordance with approved working drawings and specifications and by issuance of a new Certificate of Compliance by the building official covering the work. Upon approval of building owner's overall plan, the building official shall issue a 'written order', as per 1008(a) above, to comply with Section 1008 in accordance with the approved overall plan.

(2) The building official may permit time extensions beyond five years to accomplish compliance in accordance with the overall plan when the
owner can show just cause for such extension of time at the time the overall plan is approved.

(3) The local building official shall send second request notices as per 1008(b) to building owners who have made no response to the request at the end of six months and a third request notice to no response building owners at the end of nine months.

(4) If the building owner makes no response to any of the three requests for information on how the owner plans to comply with Section 1008 within 12 months from the first request, the building official shall issue a 'written order' to the building owner to provide his building with the safety to life facilities as required by this section and to submit an overall plan specified by (1) above within six months with the five-year time period starting on the date of the 'written order'.

(5) For purposes of this section, the Construction Section of the Division of Facility Services, Department of Human Resources, will notify all non-State owned I-Institutional buildings requiring licensure by the Division of Facility Services and coordinate compliance requirements with the Department of Insurance and the local building official.

(c) Submission of Plans and Time Schedule for Completing Work. Plans and specifications, but not necessarily working drawings covering the work necessary to bring the building into compliance with this section shall be submitted to the building official within a reasonable time. (See suggested time in NOTE of Section 1008(b) above). A time schedule for accomplishing the work, including the preparation of working drawings and specifications shall be included. Some of the work may require longer periods of time to accomplish than others, and this shall be reflected in the plan and schedule.

NOTE: Suggested Time Period For Compliance:
SUGGESTED TIME PERIOD FOR COMPLIANCE

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<tbody>
<tr>
<td>Signs in Elevator Lobbies and Elevator Cabs</td>
<td>1008.2(h)</td>
<td>1008.3(h)</td>
<td>1008.4(h)</td>
<td>180 days</td>
</tr>
<tr>
<td>Emergency Evacuation Plan</td>
<td>1008(b)</td>
<td>NOTE:</td>
<td></td>
<td>180 days</td>
</tr>
<tr>
<td>Corridor Smoke Detectors (Includes alternative door closers)</td>
<td>1008.2(c)</td>
<td>1008.3(c)</td>
<td>1008.4(c)</td>
<td>1 year</td>
</tr>
<tr>
<td>Manual Fire Alarm Voice Communication System Required</td>
<td>1008.2(a)</td>
<td>1008.3(a)</td>
<td>1008.4(a)</td>
<td>1 year</td>
</tr>
<tr>
<td>Smoke Detectors Required</td>
<td>1008.2(b)</td>
<td>1008.3(b)</td>
<td>1008.4(b)</td>
<td>2 years</td>
</tr>
<tr>
<td>Protection and Fire Stopping for Vertical Shafts Special Exit</td>
<td>1008.2(f)</td>
<td>1008.3(f)</td>
<td>1008.4(f)</td>
<td>3 years</td>
</tr>
</tbody>
</table>

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Requirements Number, Location and Illumination to be in accordance with Section 1007  
1008.2(e)  1008.3(e)  1008.4(e)  3 years

Emergency Electrical Power Supply  
1008.2(d)  1008.3(d)  1008.4(d)  4 years

Special Exit Facilities Required  
1008.2(e)  1008.3(e)  1008.4(e)  5 years

Compartmentation for Institutional Buildings  
1008.2(f)  1008.3(f)  1008.4(f)  5 years

Emergency Elevator Requirements  
1008.2(h)  1008.3(h)  1008.4(h)  5 years

Central Alarm Facility Required  
1008.3(i)  1008.4(i)  5 years

Areas of Refuge Required on Every Eighth Floor  
1008.4(j)  5 years

Smoke Venting  
1008.4(k)  5 years

Fire Protection of Electrical Conductors  
1008.4(l)  5 years

Sprinkler System Required  
1008.4(m)  5 years

(d) Building Official Notification of Department of Insurance. The building official shall send copies of written notices he sends to building owners to the Engineering and Building Codes Division for their files and also shall file an annual report by August 15th of each year covering the past fiscal year setting forth the work accomplished under the provisions of this section.

(e) Construction Changes and Design of Life Safety Equipment. Plans and specifications which contain construction changes and design of life safety equipment requirements to comply with provisions of this section shall be prepared by a registered architect in accordance with provisions of Chapter 83 of the General Statutes or by a registered engineer in accordance with provisions of Chapter 89 of the General Statutes or by both an architect and engineer particularly qualified by training and experience for the type of work involved. Such plans and specifications shall be submitted to the Engineering and Building Codes Division of the Department of Insurance for approval. Plans and specifications for I-Institutional buildings licensed by the Division of Facility Services as noted in (b) above shall be submitted to the Construction Section of that Division for review and approval.

(f) Filing of Test Reports and Maintenance on Life Safety Equipment. The engineer performing the design for the electrical and mechanical equipment, including sprinkler systems, must file the test results with the Engineering and Building Codes Division of the Department of Insurance, or to the agency designated by the Department of Insurance, that such systems have been tested to indicate that they function in accordance with the standards specified in this section and according to design criteria. These test results shall be a prerequisite for the Certificate of Compliance required by (b) above. Test results for I-Institutional shall be filed with the Construction Section, Division of Facility Services. It shall be the duty and responsibility of the owners of Class I, II and III buildings to maintain smoke detection, fire detection, fire control, smoke removal and venting as required by this section and similar emergency systems.
in proper operating condition at all times. Certification of full tests and inspections of all emergency systems shall be provided by the owner annually to the Fire Department.

(g) Applicability of Chapter X and Conflicts with Other Sections. The requirements of this section shall be in addition to those of Sections 1001 through 1007; and in case of conflict, the requirements affording the higher degree of safety to life shall apply, as determined by the building official.

(h) Classes of Buildings and Occupancy Classifications. Buildings shall be classified as Class I, II or III according to Table 1008.1. In the case of mixed occupancies, for this purpose, the classification shall be the most restrictive one resulting from the application of the most prevalent occupancies to Table 1008.1.

FOOTNOTE: Emergency Plan. Owners, operators, tenants, administrators or managers of high-rise buildings should consult with the fire authority having jurisdiction and establish procedures which shall include but not necessarily be limited to the following:

(1) Assignment of a responsible person to work with the fire authority in the establishment, implementation and maintenance of the emergency pre-fire plan.

(2) Emergency plan procedures shall be supplied to all tenants and shall be posted conspicuously in each hotel guest room, each office area, and each schoolroom.

(3) Submission to the local fire authority of an annual renewal or amended emergency plan.

(4) Plan should be completed as soon as possible.

1008.1 · ALL EXISTING BUILDINGS SHALL BE CLASSIFIED AS CLASS I, II AND III ACCORDING TO TABLE 1008.1.

TABLE 1008.1

<table>
<thead>
<tr>
<th>Scope</th>
<th>OCCUPIED FLOOR ABOVE AVERAGE</th>
<th>OCCUPIED FLOOR EXCEEDING HEIGHT</th>
</tr>
</thead>
<tbody>
<tr>
<td>CLASS (1) OCCUPANCY GROUP (3)(4)</td>
<td>60’ but less than 120’ above average grade or 6 but less than 12 stories above average grade.</td>
<td></td>
</tr>
<tr>
<td>GROUP (2)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Class 1</td>
<td>36’ but less than 60’ above average grade or 3 but less than 6 stories above average</td>
<td></td>
</tr>
</tbody>
</table>

FOOTNOTE: Emergency Plan. Owners, operators, tenants, administrators or managers of high-rise buildings should consult with the fire authority having jurisdiction and establish procedures which shall include but not necessarily be limited to the following:

(1) Assignment of a responsible person to work with the fire authority in the establishment, implementation and maintenance of the emergency pre-fire plan.

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(4) Plan should be completed as soon as possible.
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<table>
<thead>
<tr>
<th>Class II</th>
<th>Group R-Residential</th>
<th>120' but less than grade.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Group B-Business</td>
<td>250' above average grade</td>
</tr>
<tr>
<td></td>
<td>Group E-Educational</td>
<td>or 12 but less than 25 stories above average grade.</td>
</tr>
<tr>
<td></td>
<td>Group A-Assembly</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Group H-Hazardous</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Group I-Institutional-Unrestrained</td>
<td>60' but less than 250' above average grade or 6 but less than 25 stories above average grade.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Class III</th>
<th>Group R-Residential</th>
<th>250' or 25 stories above average grade.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Group B-Business</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Group E-Educational</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Group I-Institutional</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Group A-Assembly</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Group H-Hazardous</td>
<td></td>
</tr>
</tbody>
</table>

**NOTE 1:** The entire building shall comply with this section when the building has an occupied floor above the height specified, except that portions of the buildings which do not exceed the height specified are exempt from this section, subject to the following provisions:

(a) Low-rise portions of Class I buildings must be separated from high-rise portions by one-hour construction.

(b) Low-rise portions of Class II and III buildings must be separated from high-rise portions by two-hour construction.

(c) Any required exit from the high-rise portion which passes through the low-rise portions must be separated from the low-rise portion by the two-hour construction.

**NOTE 2:** The height described in Table 1008.1 shall be measured between the average grade outside the building and the finished floor of the top occupied story.

**NOTE 3:** Public parking decks meeting the requirements of Section 412.7 and less than 75 feet in height are exempt from the requirements of this section when there is no other occupancy above or below such deck.

**NOTE 4:** Special purpose equipment buildings, such as telephone equipment buildings housing the equipment only, with personnel occupant load limited to persons required to maintain the equipment may be exempt from any or all of these requirements at the discretion of the Engineering and Building Codes Division provided such special purpose equipment building is separated from other portions of the building by two-hour fire rated construction.

1008.2 - REQUIREMENTS FOR EXISTING CLASS I BUILDINGS.

All Class I buildings shall be provided with the following:
(a) An approved manual fire alarm system, meeting the requirements of Section 1125 and applicable portions of NFPA 71, 72A, 72B, 72C or 72D, shall be provided unless the building is fully sprinklered or equipped with an approved automatic fire detection system connected to the Fire Department.

(b) All Class I buildings shall meet the requirements of Sections 1001-1007.

(c) Smoke Detectors Required. At least one approved listed smoke detector tested in accordance with UL 167, capable of detecting visible and invisible particles of combustion shall be installed as follows:

1. All buildings classified as institutional, residential and assembly occupancies shall be provided with listed smoke detectors in all required exit corridors spaced no further than 60' on center or more than 15' from any wall. Exterior corridors open to the outside are not required to comply with this requirement. If the corridor walls have one-hour fire resistance rating with all openings protected with 1-3/4 inch solid wood core or hollow metal door or equivalent and all corridor doors are equipped with approved self-closing devices, the smoke detectors in the corridor may be omitted. Detectors in corridors may be omitted when each dwelling unit is equipped with smoke detectors which activate the alarm system.

2. In every mechanical equipment, boiler, electrical equipment, elevator equipment or similar room unless the room is sprinklered or the room is separated from other areas by two-hour fire resistance construction with all openings therein protected with approved fire dampers and Class B fire doors. (Approved listed fire (heat) detectors may be submitted for these rooms.)

3. In the return air portion of every air conditioning and mechanical ventilation system that serves more than one floor.

4. The activation of any detector shall activate the alarm system, and shall cause such other operations as required by this Code.

5. The annunciator shall be located near the main entrance or in a central alarm and control facility.

NOTE 1: Limited area sprinklers may be supplied from the domestic water system provided the domestic water system is designed to support the design flow of the largest number of sprinklers in any one of the enclosed areas. When supplied by the domestic water system, the maximum number of sprinklers in any one enclosed room or area shall not exceed 20 sprinklers which must totally protect the room or area.

(d) Emergency Electrical Power Supply. An emergency electrical power supply shall be provided to supply the following for a period of not less than two hours. An emergency electrical power supply may consist of generators, batteries, a minimum of two remote connections to the public utility grid supplied by multiple generating stations, a combination of the above.

1. Emergency, exit and elevator cab lighting.
2. Emergency illumination for corridors, stairs, etc.
3. Emergency Alarms and Detection Systems. Power supply for fire alarm and fire detection. Emergency power does not need to be connected to fire alarm or detection systems when they are equipped with their own emergency power supply from float or trickle charge battery in accordance with NFPA Standards.
(e) Special Exit Requirements. Exits and exitways shall meet the following requirements:

(1) Protection of Stairways Required. All required exit stairways shall be enclosed with noncombustible one-hour fire rated construction with a minimum of 1-3/4 inch solid core wood door or hollow metal door or 20 minute UL listed doors as entrance thereto. (See Section 1007.5).

(2) Number and Location of Exits. All required exit stairways shall meet the requirements of Section 1007 to provide for proper number and location and proper fire rated enclosures and illumination of and designation for means of egress.

(3) Exit Outlets. Each required exit stair shall exit directly outside or through a separate one-hour fire rated corridor with no openings except the necessary openings to exit into the fire rated corridor and from the fire rated corridor and such openings shall be protected with 1-3/4 inch solid wood core or hollow metal door or equivalent unless the exit floor level and all floors below are equipped with an approved automatic sprinkler system meeting the requirements of NFPA No. 13.

(f) Smoke Compartments Required for I-Institutional Buildings. Each occupied floor shall be divided into at least two compartments with each compartment containing not more than 30 institutional occupants. Such compartments shall be subdivided with one-half hour fire rated partitions which shall extend from outside wall to outside wall and from floor to and through any concealed space to the floor slab or roof above and meet the following requirements:

(1) Maximum area of any smoke compartment shall be not more than 22,500 square feet in area with both length and width limited to 150 feet.

(2) At least one smoke partition per floor regardless of building size forming two smoke zones of approximately equal size.

(3) All doors located in smoke partitions shall be properly gasketed to insure a substantial barrier to the passage of smoke and gases.

(4) All doors located in smoke partitions shall be no less than 1-3/4 inch thick solid core wood doors with UL, 1/4 inch wire glass panel in metal frames. This glass panel shall be a minimum of 100 square inches and a maximum of 720 square inches.

(5) Every door located in a smoke partition shall be equipped with an automatic closer. Doors that are normally held in the open position shall be equipped with an electrical device that shall, upon actuation of the fire alarm or smoke detection system in an adjacent zone, close the doors in that smoke partition.

(6) Glass in all corridor walls shall be 1/4”, UL approved, wire glass in metal frames in pieces not to exceed 1296 square inches.

(7) Doors to all patient rooms and treatment areas shall be a minimum of 1-3/4 inch solid core wood doors except in fully sprinklered buildings.

(g) Protection and Fire Stopping for Vertical Shafts. All vertical shafts extending more than one floor including elevator shafts, plumbing shafts, electrical shafts and other vertical openings shall be protected with noncombustible one-hour fire rated construction with shaft wall openings protected with 1-3/4 inch solid core wood door or hollow metal door. Vertical shafts (such as electrical wiring shafts) which have openings such as ventilated
doors on each floor must be fire stopped at the floor slab level with noncombustible materials having a fire resistance rating not less than one hour to provide an effective barrier to the passage of smoke, heat and gases from floor to floor through such shafts.

EXCEPTION: Shaft wall openings protected in accordance with NFPA No. 90A and openings connected to metal ducts equipped with approved fire dampers within the shaft wall openings do not need any additional protection.

(h) Signs in Elevator Lobbies and Elevator Cabs. Each elevator lobby call station on each floor shall have an emergency sign located adjacent to the call button and each elevator cab shall have an emergency sign located adjacent to the floor status indicator. The required emergency sign shall be readable at all times and shall be a minimum of 1/2" high block letters with the words: 'IN CASE OF FIRE DO NOT USE ELEVATOR - USE THE EXIT STAIRS' or other words to this effect.

1008.3 - REQUIREMENTS FOR EXISTING CLASS II BUILDINGS.

All Class II buildings must meet the following requirements:

(a) Manual Fire Alarm. Provide manual fire alarm system in accordance with Section 1008.2(a). In addition, buildings so equipped with sprinkler alarm system or automatic fire detection system must have at least one manual fire alarm station near an exit on each floor as a part of such sprinkler or automatic fire detection and alarm system. Such manual fire alarm systems shall report a fire by floor.

(b) Voice Communication System Required. An approved voice communication system or systems operated from the central alarm and control facilities shall be provided and shall consist of the following:

(1) One-Way Voice Communication Public Address System Required. A one-way voice communication system shall be established on a selective basis which can be heard clearly by all occupants in all exit stairways, elevators, elevator lobbies, corridors, assembly rooms and tenant spaces.

NOTE 1: This system shall function so that in the event of one circuit or speaker being damaged or out of service, the remainder of the system shall continue to be operable.

NOTE 2: This system shall include provisions for silencing the fire alarm devices when the loud speakers are in use, but only after the fire alarm devices have operated initially for not less than 15 seconds.

(c) Smoke Detectors Required. Smoke detectors are required as per Section 1008.2(c). The following are additional requirements:

(1) Storage rooms larger than 24 square feet or having a maximum dimension of over eight feet shall be provided with approved fire detectors or smoke detectors installed in an approved manner unless the room is sprinklered.

(2) The actuation of any detectors shall activate the fire alarm system.

(d) Emergency Electrical Power Supply. An emergency electrical power supply shall be provided to supply the following for a period of not less than two hours. An emergency electrical power supply may consist of generators, batteries, a minimum of two remote connections to the public utility grid supplied by multiple generating stations, a combination of the above. Power supply shall furnish power for items listed in Section 1008.2(d) and the following:

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(1) Pressurization Fans. Fans to provide required pressurization, smoke venting or smoke control for stairways.

(2) Elevators. The designated emergency elevator.

(e) Special Exit Facilities Required. The following exit facilities are required:

(1) The special exit facilities required in 1008.2(e) are required. All required exit stairways shall be enclosed with noncombustible two-hour fire rated construction with a minimum of 1-1/2 hour Class B-labeled doors as entrance thereto; (See Section 1007.5)

(2) Smoke-Free Stairways Required. At least one stairway shall be a smoke free stairway in accordance with Section 1104.2 or at least one stairway shall be pressurized to between 0.15 inch and 0.35 inch water column pressure with all doors closed. Smoke-free stairs and pressurized stairs shall be identified with signs containing letters a minimum of 1/2 inch high containing the words ‘PRIMARY EXIT STAIRS’ unless all stairs are smoke free or pressurized. Approved exterior stairways meeting the requirements of Chapter XI or approved existing fire escapes meeting the requirements of Chapter X with all openings within 10 feet protected with wire glass or other properly designed stairs protected to assure similar smoke-free vertical egress may be permitted. All required exit stairways shall also meet the requirements of Section 1008.2(e).

(3) If stairway doors are locked from the stairway side, keys shall be provided to unlock all stairway doors on every eighth floor leading into the remainder of the building and the key shall be located in a glass enclosure adjacent to the door at each floor level (which may sound an alarm when the glass is broken). When the key unlocks the door, the hardware shall be of the type that remains unlocked after the key is removed. Other means, approved by the building official may be approved to enable occupants and fire fighters to readily unlock stairway doors on every eighth floor that may be locked from the stairwell side. The requirements of this section may be eliminated in smoke-free stairs and pressurized stairs provided fire department access keys are provided in locations acceptable to the local fire authority.

(f) Compartmentation for I-Institutional Buildings Required. See Section 1008.2(f).

(g) Protection and Fire Stopping for Vertical Shafts. All vertical shafts extending more than one floor including elevator shafts, plumbing shafts, electrical shafts and other vertical openings shall be protected with noncombustible two-hour fire rated construction with Class B-labeled door except for elevator doors which shall be hollow metal or equivalent. All vertical shafts which are not so enclosed must be fire stopped at each floor slab with noncombustible materials having a fire resistance rating of not less than two hours to provide an effective barrier to the passage of smoke, heat and gases from floor to floor through such shaft.

EXCEPTION: Shaft wall openings protected in accordance with NFPA No. 90A and openings connected to metal ducts equipped with approved fire dampers within the shaft wall opening do not need any additional protection.

(h) Emergency Elevator Requirements.

(1) Elevator Recall. Each elevator shall be provided with an approved manual return. When actuated, all cars taking a minimum of one car at a time, in each group of elevators having common lobby, shall return
directly at normal car speed to the main floor lobby, or to a smoke-free lobby leading most directly to the outside. Cars that are out of service are exempt from this requirement. The manual return shall be located at the main floor lobby.

NOTE: Manually operated cars are considered to be in compliance with this provision if each car is equipped with an audible or visual alarm to signal the operator to return to the designated level.

(2) Identification of Emergency Elevator. At least one elevator shall be identified as the emergency elevator and shall serve all floor levels. NOTE: This elevator will have a manual control in the cab which will override all other controls including floor call buttons and door controls.

(3) Signs in Elevator Lobbies and Elevator Cabs. Each elevator lobby call station on each floor shall have an emergency sign located adjacent to the call button and each elevator cab shall have an emergency sign located adjacent to the floor status indicator. These required emergency signs shall be readable at all times and shall be a minimum of 1/2 inch high block letters with the words: 'IN CASE OF FIRE DO NOT USE ELEVATOR - USE THE EXIT STAIRS' or other words to this effect.

(i) Central Alarm Facility Required. A central alarm facility accessible at all times to Fire Department personnel or attended 24 hours a day, shall be provided and shall contain the following:

(1) Facilities to automatically transmit manual and automatic alarm signals to the Fire Department either directly or through a signal monitoring service.

(2) Public service telephone.

(3) Fire detection and alarm systems annunciator panels to indicate the type of signal and the floor or zone from which the fire alarm is received. These signals shall be both audible and visual with a silence switch for the audible.

NOTE: Detectors in HVAC systems used for fan shut down need not be annunciated.

(4) Master keys for access from all stairways to all floors.

(5) One-way voice emergency communications system controls.

1008.4 - REQUIREMENTS FOR EXISTING CLASS III BUILDINGS.

All Class III Buildings shall be provided with the following:

(a) Manual Fire Alarm System. A manual fire alarm system meeting the requirements of Section 1008.3(a).

(b) Voice Communication System Required. An approved voice communication system or systems operated from the central alarm and control facilities shall be provided and shall consist of the following:

(1) One-Way Voice Communication Public Address System Required. A one-way voice communication system shall be established on a selective or general basis which can be heard clearly by all occupants in all elevators, elevator lobbies, corridors, and rooms or tenant spaces exceeding 1,000 sq. ft. in area.

NOTE 1: This system shall be designed so that in the event of one circuit or speaker being damaged or out of service the remainder of the system shall continue to be operable.
NOTE 2: This system shall include provisions for silencing the fire alarm devices when the loud speakers are in use, but only after the fire alarm devices have operated initially for not less than 15 seconds.

(2) Two-way system for use by both fire fighters and occupants at every fifth level in stairways and in all elevators.

(3) Within the stairs at levels not equipped with two-way voice communications, signs indicating the location of the nearest two-way device shall be provided.

NOTE: The one-way and two-way voice communication systems may be combined.

(c) Smoke Detectors Required. Approved listed smoke detectors shall be installed in accordance with Section 1008.3(c) and in addition, such detectors shall terminate at the Central Alarm and Control Facility and be so designed that it will indicate the fire floor or the zone on the fire floor.

(d) Emergency Electrical Power Supply. Emergency electrical power supply meeting the requirements of Section 1008.3(d) to supply all emergency equipment required by Section 1008.3(d) shall be provided and in addition, provisions shall be made for automatic transfer to emergency power in not more than ten seconds for emergency illumination, emergency lighting and emergency communication systems. Provisions shall be provided to transfer power to a second designated elevator located in a separate shaft from the Primary Emergency Elevator. Any standpipe or sprinkler system serving occupied floor areas 400 feet or more above grade shall be provided with on-site generated power or diesel driven pump.

(e) Special Exit Requirements. All exits and exitways shall meet the requirements of Section 1008.3(e).

(f) Compartmentation of Institutional Buildings Required. See Section 1008.2(f).

(g) Protection and Fire Stopping for Vertical Shafts. Same as Class II buildings. See Section 1008.3(g).

(h) Emergency Elevator Requirements.

(1) Primary Emergency Elevator. At least one elevator serving all floors shall be identified as the emergency elevator with identification signs both outside and inside the elevator and shall be provided with emergency power to meet the requirements of Section 1008.3(c).

NOTE: This elevator will have a manual control in the cab which will override all other controls including floor call buttons and door controls.

(2) Elevator Recall. Each elevator shall be provided with an approved manual return. When actuated, all cars taking a minimum of one car at a time, in each group of elevators having common lobby, shall return directly at normal car speed to the main floor lobby or to a smoke-free lobby leading most directly to the outside. Cars that are out of service are exempt from this requirement. The manual return shall be located at the main floor lobby.

NOTE: Manually operated cars are considered to be in compliance with this provision if each car is equipped with an audible or visual alarm to signal the operator to return to the designated level.

(3) Signs in Elevator Lobbies and Elevator Cabs. Each elevator lobby call station on each floor shall have an emergency sign located adjacent to the call button and each elevator cab shall have an emergency sign
located adjacent to the floor status indicator. These required emergency signs shall be readable at all times and have a minimum of 1/2" high block letters with the words: 'IN CASE OF FIRE, UNLESS OTHERWISE INSTRUCTED, DO NOT USE THE ELEVATOR—USE THE EXIT STAIRS' or other words to this effect.

(4) Machine Room Protection. When elevator equipment located above the hoistway is subject to damage from smoke particulate matter, cable slots entering the machine room shall be sleeved beneath the machine room floor to inhibit the passage of smoke into the machine room.

(5) Secondary Emergency Elevator. At least one elevator located in separate shaft from the Primary Emergency Elevator shall be identified as the 'Secondary Emergency Elevator' with identification signs both outside and inside the elevator. It will serve all occupied floors above 250 feet and shall have all the same facilities as the primary elevator and will be capable of being transferred to the emergency power system.

NOTE: Emergency power supply can be sized for nonsimultaneous use of the primary and secondary emergency elevators.

(i) Central Alarm and Control Facilities Required.

(1) A central alarm facility accessible at all times to Fire Department personnel or attended 24 hours a day, shall be provided. The facility shall be located on a completely sprinklered floor or shall be enclosed in two-hour fire resistive construction. Openings are permitted if protected by listed 1-1/2 hour Class B-labeled closures or water curtain devices capable of a minimum discharge of three gpm per lineal foot of opening. The facility shall contain the following:

(i) Facilities to automatically transmit manual and automatic alarm signals to the Fire Department either directly or through a signal monitoring service.

(ii) Public service telephone.

(iii) Direct communication to the control facility.

(iv) Controls for the voice communication systems.

(v) Fire detection and alarm system annunciator panels to indicate the type of signal and the floor or zone from which the fire alarm is received, those signals, shall be both audible and visual with a silence switch for the audible.

NOTE: Detectors in HVAC systems used for fan shut down need not be annunciated.

(2) A control facility (fire department command station) shall be provided at or near the fire department response point and shall contain the following:

(i) Elevator status indicator.

NOTE: Not required in buildings where there is a status indicator at the main elevator lobby.

(ii) Master keys for access from all stairways to all floors.

(iii) Controls for the two-way communication system.

(iv) Fire detection and alarm system annunciator panels to indicate the type of signal and the floor or zone from which the fire alarm is received.

(v) Direct communication to the central alarm facility.
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(3) The central alarm and control facilities may be combined in a single approved location. If combined, the duplication of facilities and the direct communication system between the two may be deleted.

(j) Areas of Refuge Required. Class III buildings shall be provided with a designated 'area of refuge' at the 250 ft. level and on at least every eighth floor or fraction thereof above that level to be designed so that occupants above the 250 ft. level can enter at all times and be safely accommodated in floor areas meeting the following requirements unless the building is completely sprinklered:

(1) Identification and Size. These areas of refuge shall be identified on the plans and in the building as necessary. The area of refuge shall provide not less than 3 sq. ft. per occupant for the total number of occupants served by the area based on the occupancy content calculated by Section 1105. A minimum of two percent (2%) of the number of occupants on each floor shall be assumed to be handicapped and no less than 16 sq. ft. per handicapped occupant shall be provided. Smoke proof stairways meeting the requirements of Section 1104.2 and pressurized stairways meeting the requirements of Section 1108.3(e)(2) may be used for ambulatory occupants at the rate of 3 sq. ft. of area of treads and landings per person, but in no case shall the stairs count for more than one-third of the total occupants. Doors leading to designated areas of refuge from stairways or other areas of the building shall not have locking hardware or shall be automatically unlocked upon receipt of any manual or automatic fire alarm signal.

(2) Pressurized. The area of refuge shall be pressurized with 100% fresh air utilizing the maximum capacity of existing mechanical building air conditioning system without recirculation from other areas or other acceptable means of providing fresh air into the area.

(3) Fire Resistive Separation. Walls, partitions, floor assemblies and roof assemblies separating the area of refuge from the remainder of the building shall be noncombustible and have a fire resistance rating of not less than one hour. Duct penetrations shall be protected as required for penetrations of shafts. Metallic piping and metallic conduit may penetrate or pass through the separation only if the openings around the piping or conduit are sealed on each side of the penetrations with impervious noncombustible materials to prevent the transfer of smoke or combustion gases from one side of the separation to the other. The fire door serving as a horizontal exit between compartments shall be so installed, fitted and gasketed to provide a barrier to the passage of smoke.

(4) Access Corridors. Any corridor leading to each designated area of refuge shall be protected as required by Sections 1104 and 702. The capacity of an access corridor leading to an area of refuge shall be based on 150 persons per unit width as defined in Section 1105.2. An access corridor may not be less than 44 inches in width. The width shall be determined by the occupant content of the most densely populated floor served. Corridors with one-hour fire resistive separation may be utilized for area of refuge at the rate of three sq. ft. per ambulatory occupant provided a minimum of one cubic ft. per minute of outside air per square foot of floor area is introduced by the air conditioning system.
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(5) Penetrations. The continuity of the fire resistance at the juncture of exterior walls and floors must be maintained.

(k) Smoke Venting.

Smoke venting shall be accomplished by one of the following methods in nonsprinklered buildings:

(1) In a nonsprinklered building, the heating, ventilating and air conditioning system shall be arranged to exhaust the floor of alarm origin at its maximum exhausting capacity without recirculating air from the floor of alarm origin to any other floor. The system may be arranged to accomplish this either automatically or manually. If the air conditioning system is also used to pressurize the areas of refuge, this function shall not be compromised by using the system for smoke removal.

(2) Venting facilities shall be provided at the rate of 20 square feet per 100 lineal feet or 10 square feet per 50 lineal feet of exterior wall in each story and distributed around the perimeter at not more than 50 or 100 foot intervals openable from within the fire floor. Such panels and their controls shall be clearly identified.

(3) Any combination of the above two methods or other approved designs which will produce equivalent results and which is acceptable to the building official.

(l) Fire Protection of Electrical Conductors. New electrical conductors furnishing power for pressurization fans for stairways, power for emergency elevators and fire pumps required by Section 1008.4(d) shall be protected by a two-hour fire rated horizontal or vertical enclosure or structural element which does not contain any combustible materials. Such protection shall begin at the source of the electrical power and extend to the floor level on which the emergency equipment is located. It shall also extend to the emergency equipment to the extent that the construction of the building components on that floor permit. New electrical conductors in metal raceways located within a two-hour fire rated assembly without any combustible therein are exempt from this requirement.

(m) Automatic Sprinkler Systems Required.

(1) All areas which are classified as Group M-mercantile and Group H-hazardous shall be completely protected with an automatic sprinkler system.

(2) All areas used for commercial or institutional food preparation and storage facilities adjacent thereto shall be provided with an automatic sprinkler system.

(3) An area used for storage or handling of hazardous substances shall be provided with an automatic sprinkler system.

(4) All laboratories and vocational shops in Group E, Educational shall be provided with an automatic sprinkler system.

(5) Sprinkler systems shall be in strict accordance with NFPA No. 13 and the following requirements:

The sprinkler system must be equipped with a water flow and supervisory signal system that will transmit automatically a water flow signal directly to the Fire Department or to an independent signal monitoring service satisfactory to the Fire Department."
Sec. 2. G.S. 143-138 is further amended by adding a new subsection (j) at the end thereof to read as follows:

"(j) Subsection (i) of this section does not apply to business occupancy buildings as defined in the North Carolina State Building Code except that evacuation plans as required on page 8, lines 2 through 16, and smoke detectors as required for Class I Buildings as required in Section 1008.2, page 11, lines 5 through 21; Class II Buildings as required by Section 1008.3, page 17, lines 17 through 28 and page 18, lines 1 through 10; and Class III Buildings, as required by Section 1008.4, lines 21 through 25 shall not be exempted from operation of this act as applied to business occupancy buildings."

Sec. 3. Severability. If any provision or part of this act or application thereof is held invalid, the invalidity shall not affect other provisions, parts or applications of the Article which can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of June, 1981.

S. B. 661

CHAPTER 714

AN ACT TO ALLOW THE COUNTY OF CRAVEN TO USE THE PROVISIONS OF CHAPTER 136 OF THE GENERAL STATUTES IN CONDEMNATION PROCEEDINGS.

The General Assembly of North Carolina enacts:

Section 1. In the exercise of the power of eminent domain granted to the County of Craven by any law, public or local, the county may follow the procedures now or hereafter prescribed by said laws; provided, that in the exercise of its authority of eminent domain for the acquisition of property to be used for water or sewer facilities, or for solid waste collection or disposal systems or facilities, the County of Craven is hereby authorized to use the procedures and authority prescribed in Article 9 of Chapter 136 of the General Statutes of North Carolina, as now or hereafter amended; provided, further that all references in Article 9 of Chapter 136 of the General Statutes to "Department of Transportation" shall be deemed to mean "County of Craven", all references to the "Secretary of Transportation" shall be deemed to mean "County Manager" of the County of Craven, all references to "Raleigh" shall be deemed to mean "New Bern", and all other references, directly or by implication, to the condemning authority or persons or agencies connected therewith shall be deemed to mean the "County of Craven".

Provided, however, that the provisions of this section shall not apply with regard to properties owned by public service corporations as defined in G.S. 153A-160(c) unless the exercise of such power of eminent domain is either consented to by the owner of the property to be acquired by the county, or otherwise first adjudicated after notice and a hearing that such acquisition will not prevent or unreasonably impair the continued devotion to the public use of such properties and the operation by such public service corporation.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of June, 1981.
S. B. 692  
CHAPTER 715

The General Assembly of North Carolina enacts:

Section 1. The title line and line 1 of G.S. 143-34.12 are hereby amended to read as follows:

"§ 143-34.12. Certain General Statutes provisions repealed effective July 31, 1981.—The following statutes are repealed effective July 31, 1981."

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 29th day of June, 1981.

H. B. 243  
CHAPTER 716
AN ACT TO AMEND THE JUVENILE CODE TO INCLUDE PROSTITUTION WITHIN THE DEFINITION OF CHILD ABUSE AND TO AMEND G.S. 7A-549 AS IT PROVIDES FOR PHYSICIANS' AUTHORITY TO TAKE EMERGENCY CUSTODY OF AND PROTECT ABUSED CHILDREN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-517(l)(c) is hereby amended on the second line thereof by inserting between the semicolon and the word "or" the following language:

"...commits, permits or encourages any act of prostitution with or by the juvenile;

Sec. 2. G.S. 7A-549 is rewritten to read:

"§ 7A-549. Authority of medical professionals in abuse cases.—(a) Any physician or administrator of a hospital, clinic, or other medical facility to which a suspected abused juvenile is brought for medical diagnosis or treatment shall have the right, when authorized by the chief district court judge of the district or his designee, to retain physical custody of the juvenile in the facility when the physician who examines the juvenile certifies in writing that the juvenile who is suspected of being abused should remain for medical treatment or that, according to his medical evaluation, it is unsafe for the juvenile to return to his parent, guardian, custodian, or caretaker. This written certification must be signed by the certifying physician and must include the time and date that the judicial authority to retain custody is given. Copies of the written certification must be appended to the juvenile's medical and judicial records and another copy must be given to the juvenile's parent, guardian, custodian, or caretaker. The right to retain custody in the facility shall exist for up to 12 hours from the time and date contained in the written certification.

(b) Immediately upon receipt of judicial authority to retain custody, the physician, the administrator, or his designee shall so notify the director of social services for the county in which the facility is located. The director shall treat this notification as a report of suspected abuse and shall immediately begin an investigation of the case.

(1) If the investigation reveals (i) that it is the opinion of the certifying physician that the juvenile is in need of medical treatment to cure or
alleviate physical distress, or to prevent the juvenile from suffering serious physical harm which might result in death, disfigurement, or substantial impairment of bodily function, and (ii) that it is the opinion of the physician that the juvenile should for these reasons remain in the custody of the facility for 12 hours, but (iii) that the juvenile's parent, guardian, custodian or caretaker cannot be reached or, upon request, will not consent to the treatment within the facility, the director shall within the initial 12-hour period file a juvenile petition alleging abuse and setting forth supporting allegations and shall seek a nonsecure custody order. A petition filed and a nonsecure custody order obtained in accordance with this subdivision shall come on for hearing under the regular provisions of this Subchapter unless the director and the certifying physician together voluntarily dismiss the petition.

(2) In all cases except those described in subdivision (1) above, the director shall conduct his investigation and may initiate juvenile proceedings and take all other steps authorized by the regular provisions of this Subchapter. If the director decides not to file a petition, the physician, the administrator or his designee may ask the prosecutor to review this decision according to the provisions of G.S. 7A-546 and G.S. 7A-547.

(c) If, upon hearing, the court determines that the child is found in a county other than the county of legal residence, in accord with G.S. 153A-257, the child may be transferred, in accord with G.S. 7A-647(2), to the custody of the department of social services in the county of residence.

(d) If the court, upon inquiry, determines that the medical treatment rendered was necessary and appropriate, the cost of that treatment may be charged to the parents, guardian, custodian, or caretaker, or, if the parents are unable to pay, to the county of residence in accordance with G.S. 7A-647(3) and G.S. 7A-650.

(e) Except as otherwise provided, a petition begun under this section shall proceed in like manner with petitions begun under G.S. 7A-544.

(f) The procedures in this section are in addition to, and not in derogation of, the child abuse and neglect reporting provisions of G.S. 7A-543 and the temporary custody provisions of G.S. 7A-571. Nothing in this section shall preclude a physician or administrator and a director of social services from following the procedures of G.S. 7A-543 and G.S. 7A-571 whenever these procedures are more appropriate to the juvenile's circumstances."

Sec. 3. Section 1 of this act is effective upon ratification and Section 2 shall be effective 90 days after ratification.

In the General Assembly read three times and ratified, this the 29th day of June, 1981.
AN ACT TO AMEND CHAPTER 90, ARTICLE 4 OF THE GENERAL STATUTES, RELATING TO PHARMACY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-55 is rewritten to read as follows:

"§ 90-55. Board of Pharmacy; selection; terms; vacancies.—(a) The Board of Pharmacy shall consist of six persons. Five of the members shall be licensed as pharmacists within this State and shall be elected and commissioned by the Governor as hereinafter provided. Pharmacist members shall be chosen in an election held as hereinafter provided in which every person licensed to practice pharmacy in North Carolina and residing in North Carolina shall be entitled to vote. Each pharmacist member of said Board shall be elected for a term of three years and until his successor shall be elected and shall qualify. Members chosen by election under this section shall be elected upon the expiration of the respective terms of the members of the present Board of Pharmacy. No pharmacist shall be nominated for membership on said Board, or shall be elected to membership on said Board, unless, at the time of such nomination, and at the time of such election, he is licensed to practice pharmacy in North Carolina. In case of death, resignation or removal from the State of any pharmacist member of said Board, the pharmacist members of the Board shall elect in his place a pharmacist who meets the criteria set forth in this section to fill the unexpired term.

One member of the Board shall be a person who is not a licensed pharmacist and who represents the interest of the public at large. The Governor shall appoint this member not later than July 1, 1981.

All Board members serving on June 30, 1981, shall be eligible to complete their respective terms. No member appointed or elected to a term on or after July 1, 1981, shall serve more than two complete consecutive three-year terms. The Governor may remove any member appointed by him for good cause shown and may appoint persons to fill unexpired terms of members appointed by him.

It shall be the duty of a member of the Board of Pharmacy, within 10 days after receipt of notification of his appointment and commission, to appear before the clerk of the superior court of the county in which he resides and take and subscribe an oath to properly and faithfully discharge the duties of his office according to law.

(b) All nominations and elections of pharmacist members of the Board shall be conducted by the Board of Pharmacy, which is hereby constituted a Board of Pharmacy Elections. Every pharmacist with a current North Carolina license residing in this State shall be eligible to vote in all elections. The list of licensed pharmacists shall constitute the registration list for elections. The Board of Pharmacy Elections is authorized to make rules and regulations relative to the conduct of these elections, provided such rules and regulations are not in conflict with the provisions of this section and provided that notice shall be given to all licensed pharmacists residing in North Carolina. All such rules and regulations shall be adopted subject to the procedures of Chapter 150A of the General Statutes of North Carolina. From any decision of the Board of Pharmacy Elections relative to the conduct of such elections, appeal may be taken to the courts in the manner otherwise provided by Chapter 150A of the General Statutes.
(c) All rules, regulations, and bylaws of the North Carolina Board of Pharmacy so far as they are not inconsistent with the provisions of this Article, shall continue in effect."

Sec. 2. G.S. 90-57.1 is hereby repealed.

Sec. 3. G.S. 90-60 is amended on line 7 by deleting the phrase "and renewal thereof, twenty-five dollars ($25.00)".

Sec. 4. G.S. 90-61 is amended on line 2 of the second paragraph by deleting the words "shall be not less than 21 years of age; he".

Sec. 5. G.S. 90-61.1 is amended on lines 3 and 4 by deleting the words "shall be not less than 20 years of age.".

Sec. 6. The title of G.S. 90-64 is rewritten to read as follows:

"§ 90-64. Applicants licensed in other states.—"

Sec. 7. G.S. 90-64(a) is rewritten to read as follows:

"If an applicant for licensure is already licensed in another state to practice pharmacy, the Board shall issue a license to practice pharmacy to the applicant upon evidence that:

(1) the applicant is currently an active, competent practitioner in good standing; and
(2) the applicant currently holds a valid license in another state, and
(3) no disciplinary proceeding or unresolved complaint is pending anywhere at the time a license is to be issued by this State, and
(4) the licensure requirements in the other state are equivalent to or higher than those required by this State.

Any license issued upon the application of any pharmacist from any other state shall be subject to all of the provisions of this Article with reference to the license issued by the North Carolina Board of Pharmacy upon examination of applicants, and the rights and privileges to practice the profession of pharmacy under any license so issued shall be subject to the same duties, obligations, restrictions and conditions as imposed by this Article on pharmacists originally examined by the North Carolina Board of Pharmacy."

Sec. 8. G.S. 90-65(a) is amended at the end of line 26 by deleting the period and substituting therefor a semicolon.

G.S. 90-65(a) is further amended by inserting at the end thereof a new subsection to read as follows:

"(9) Negligence in the practice of pharmacy."

Sec. 9. G.S. 90-85.1 is amended by adding a new sentence at the end thereof which shall read as follows:

"Actions under this section shall be commenced in the judicial district in which the respondent resides or has his principal place of business."

Sec. 10. G.S. 143-34.12 is amended by deleting line 5 which reads as follows:

"Chapter 90, Article 4, entitled 'Pharmacy'."

Sec. 11. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of June, 1981.
H. B. 593  CHAPTER 718
AN ACT TO REGULATE THE DISPOSAL OF HAZARDOUS WASTES AND RADIOACTIVE MATERIAL IN ANSON COUNTY.

Whereas, hazardous wastes and radioactive material are inevitable by-products of industry in our technologically and scientifically advanced society; and

Whereas, experience has shown that the improper disposal of hazardous wastes and radioactive material has devastating immediate and long-term effects on the environment including crop damage, soil contamination and loss of wildlife, including fish and game animals; and

Whereas, agriculture and outdoor recreational activity, including hiking, hunting and fishing are essential to the economy of Anson County; and

Whereas, a hazardous waste disposal site located in certain areas in Anson County could be a detriment to the wildlife habitat of the area; and

Whereas, a hazardous waste disposal site in Western Alabama is located in a massive chalk (calcium carbonate) deposit that is approximately 1,000 feet thick and is dry throughout its entire thickness; and

Whereas, in North Central Oregon, hazardous wastes are buried in basalt rock approximately 600 feet above the water table; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. No hazardous wastes, as defined in G.S. 130-166.14(4), or radioactive material, as defined in G.S. 104E-5(14), may be disposed of in Anson County unless the water table at the disposal site is at least 75 feet below the surface.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of June, 1981.

H. B. 897  CHAPTER 719
AN ACT TO RAISE THE THRESHOLD AMOUNT OF CONSTRUCTION, REPAIR, OR SUPPLY PURCHASE CONTRACTS FOR WHICH INFORMAL BIDS ARE REQUIRED.

The General Assembly of North Carolina enacts:

Section 1. The first sentence of G.S. 143-131 is amended by deleting the words “one thousand dollars ($1,000)” and substituting the words “two thousand five hundred dollars ($2,500)”.

Sec. 2. The following local acts are repealed:

Section 2 of Chapter 729, Session Laws of 1953
Section 2 of Chapter 277, Session Laws of 1977
Section 2 of Chapter 262, Session Laws of 1979.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of June, 1981.
AN ACT TO SUBSTITUTE LISTS OF LICENSED DRIVERS FOR TAXPAYERS AS A SOURCE OF NAMES FOR JURY LISTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 9-2 is rewritten to read as follows:

"§ 9-2. Preparation of jury list; sources of names.—(a) It shall be the duty of the jury commission beginning July 1, 1981, (and each biennium thereafter) to prepare a list of prospective jurors qualified under this Chapter to serve in the biennium beginning January 1, 1982, (and each biennium thereafter).

(b) In preparing the list, the jury commission shall use the voter registration records of the county. The commission may use fewer than all the names from the voter list if it uses a random method of selection. The commission may use other sources of names deemed by it to be reliable.

(c) Effective July 1, 1983, the list of licensed drivers residing in each county, as supplied to the county by the Division of Motor Vehicles pursuant to G.S. 20-43.4, shall also be required as a source of names for use by the commission in preparing the jury list.

(d) When more than one source is used to prepare the jury list the jury commission shall take randomly a sample of names from the list of registered voters and each additional source used. The same percentage of names must be selected from each list. The names selected from the voter registration list shall be compared with the entire list of names from the second source. Duplicate names shall be removed from the voter registration sample, and the remaining names shall then be combined with the sample of names selected from the second source to form the jury list. If more than two source lists are used, the same procedure must be used to remove duplicates.

(e) As an alternative to the procedure set forth in subsection (d), the jury commission may merge the entire list of names of each source used, remove the duplicate names, and randomly select the desired number of names to form the jury list.

(f) The jury list shall contain not less than one and one-quarter times and not more than three times as many names as were drawn for jury duty in all courts in the county during the previous biennium, but in no event shall the list include fewer than 500 names, except that in counties in which a different panel of jurors is selected for each day of the week, there is no limit to the number of names that may be placed on the jury list.

(g) The custodian of the appropriate election registration records in each county shall cooperate with the jury commission in its duty of compiling the list required by this section.

(h) As used in this section 'random' or 'randomly' refers to a method of selection that results in each name on a list having an equal opportunity to be selected."

Sec. 2. Article 3 of Chapter 20 of the General Statutes is amended to add the following new section:

"§ 20-43.4. Current list of licensed drivers to be provided to jury commissions.—The Commissioner of Motor Vehicles shall provide to each county jury commission an alphabetical list of all persons that he has determined are residents of the county, 18 years of age or older, and licensed to drive a motor vehicle as of July 1, 1983, and as of July 1 of each biennium
thereafter. The list shall include those persons whose license to drive has been suspended, and those former licensees whose license has been cancelled. The list shall contain the address and zip code of each driver, plus his date of birth and sex, and may be in either printed or computerized form, as requested by each county.”

Sec. 3. G.S. 9-1 is amended in line one by deleting “October” and inserting in lieu thereof “July”.

Sec. 4. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 29th day of June, 1981.

H. B. 923  CHAPTER 721

AN ACT TO ALLOW THE DEPARTMENT OF CULTURAL RESOURCES TO CHARGE CERTAIN FEES WITH THE APPROVAL OF THE HISTORICAL COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 121-4 as the same appears in the 1981 Replacement Volume 3B is amended by adding the following new subdivision to read:

“(14) With the approval of the Historical Commission, to charge and collect fees not to exceed cost for photographs, photocopies of documents, microfilm and other microforms and other audio or visual reproductions of public records or other documentary materials, objects, artifacts, and research materials; and for the restoration and preservation of documents and other materials important for archival or historical purposes.”

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of June, 1981.

H. B. 969  CHAPTER 722

AN ACT TO AMEND THE NURSING HOME ADMINISTRATOR ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-34.12 is amended in the list by deleting the line “Chapter 90, Article 20, entitled ‘Nursing Home Administration Act.’”

Sec. 2. G.S. 143-34.13 is amended by adding at the beginning of the list the line “Chapter 90, Article 20, entitled ‘Nursing Home Administration Act.’”

Sec. 3. G.S. 90-276(2) is amended by deleting the last sentence.

Sec. 4. G.S. 90-277 is amended by rewriting the first paragraph to read:

“There is created the State Board of Examiners for Nursing Home Administrators. The Board shall consist of seven members. The seven members shall be voting members and shall meet the following criteria:

(1) All shall be individuals representative of the professions and institutions concerned with the care and treatment of chronically ill or infirm elderly patients.

(2) Less than a majority of the Board members shall be representative of a single profession or institutional category.

(3) Three of the Board members shall be licensed nursing home administrators, and shall be considered as representatives of institutions in construing this section.
(4) Four of the Board members shall be public, noninstitutional members, with no direct financial interest in nursing homes.

(5) The terms of the Board members shall be limited to two consecutive terms."

Sec. 5. G.S. 90-278(1)b. is rewritten to read:
"(1)b. He has satisfactorily completed a course prescribed by the Board, which course contains instruction on the services provided by nursing homes, laws governing nursing homes, protection of patient interests and nursing home administration and he has presented evidence satisfactory to the Board of sufficient education, training and experience in the foregoing fields to administer a nursing home; and"

Sec. 6. G.S. 90-278(2) is repealed.

Sec. 7. G.S. 90-278(3) is amended in the second sentence by deleting the word "secretary" and by substituting the word "chairman".

Sec. 8. G.S. 90-282 is repealed.

Sec. 9. G.S. 90-283 is amended by rewriting the first sentence to read:
"The Board shall elect from its membership a chairman, vice-chairman and secretary, and shall adopt rules and regulations to govern its proceedings."

Sec. 10. G.S. 90-285(1) is amended by deleting the phrase "who are otherwise suitable, by training or experience" and by substituting the phrase: "who are otherwise suitable, by education, training and experience".

Sec. 11. G.S. 90-285(3) is rewritten to read:
"(3) Issue licenses to qualified individuals;".

Sec. 12. Chapter 90 of the General Statutes is amended by adding a new section to read:
"§ 90-285.1. Suspension, revocation or refusal to issue a license.—The Board may suspend, revoke, or refuse to issue a license or may reprimand or otherwise discipline a licensee after due notice and an opportunity to be heard at a formal hearing, upon substantial evidence that a licensee:
(1) has violated the provisions of this Article or the rules adopted by the Board;
(2) has violated the provisions of G.S. 130-9(e) and rules promulgated thereunder;
(3) has been convicted of, or has tendered and has had accepted a plea of no contest to, a criminal offense showing professional unfitness;
(4) has practiced fraud, deceit, or misrepresentation in securing or procuring a nursing home administrator license;
(5) is incompetent to engage in the practice of nursing home administration or to act as a nursing home administrator;
(6) has practiced fraud, deceit, or misrepresentation in his capacity as a nursing home administrator;
(7) has committed acts of misconduct in the operation of a nursing home under his jurisdiction;
(8) is a habitual drunkard;
(9) is addicted or dependent upon the use of morphine, opium, cocaine, or other drugs recognized as resulting in abnormal behavior;
(10) has practiced without being registered biennially;
(11) has transferred or surrendered possession of, either temporarily or permanently, his license or certificate to any other person;"
(12) has paid, given, has caused to be paid or given or offered to pay or to give to any person a commission or other valuable consideration for the solicitation or procurement, either directly or indirectly, of nursing home patronage;  
(13) has been guilty of fraudulent, misleading, or deceptive advertising;  
(14) has falsely impersonated another licensee;  
(15) has failed to exercise regard for the safety, health or life of the patient;  
(16) has permitted unauthorized disclosure of information relating to a patient or his records; or  
(17) has discriminated among patients, employees, or staff on account of race, sex, religion, color, or national origin."

Sec. 13. G.S. 90-286 is amended by adding a new sentence to read as follows:
"The Board is without power to adopt any rule imposing a continuing education requirement for license renewal. However, the Board shall certify and administer courses in continuing education for nursing home administrators and shall keep a record of such courses completed successfully by each licensee."

Sec. 14. Any rule promulgated pursuant to G.S. 90-286 regarding the imposition of continuing education requirements is hereby repealed.

Sec. 15. Any rules promulgated pursuant to the rule-making powers of the Board under Article 20 of Chapter 90 of the General Statutes shall be ineffective after October 1, 1981, unless readopted by the Board prior to that date.

Sec. 16. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 29th day of June, 1981.

H. B. 1082

AN ACT TO AMEND THE SIZE AND INTEREST RATE RESTRICTIONS ON MUTUAL INSURANCE COMPANY GUARANTY CAPITAL.

The General Assembly of North Carolina enacts:

Section 1. The first sentence of G.S. 58-96 is amended by deleting the words and figures, "nor more than one million dollars ($1,000,000)". The second sentence of G.S. 58-96 is amended by inserting immediately after the word "shares" the phrase, "and, in the discretion of the board of directors of a company, said dividend may be increased in any year to not more than fifteen percentum (15%)".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of June, 1981.

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H. B. 1110  CHAPTER 724

AN ACT TO INCLUDE THE DIVISION OF FOREST RESOURCES IN THE LIST OF CLAIMANT AGENCIES IN THE SETOFF DEBT COLLECTION ACT.

*The General Assembly of North Carolina enacts:*

Section 1. G.S. 105A-2(1) is amended by adding a new subdivision "m." to read:

"m. The Division of Forest Resources of the Department of Natural Resources and Community Development."

Sec. 2. This act shall become effective July 1, 1981, and shall apply to refunds due on and after January 1, 1982.

In the General Assembly read three times and ratified, this the 29th day of June, 1981.

H. B. 1111  CHAPTER 725

AN ACT TO PROHIBIT DISCOVERY AND ADMISSIBILITY OF ACTIONS OF MEDICAL REVIEW COMMITTEE MEETINGS.

*The General Assembly of North Carolina enacts:*

Section 1. A new section is added to Article 17, of Chapter 131 of the General Statutes to read:

"§ 131-170. Introduction of records into evidence; testimony of members of committees.—The proceedings of, records and materials produced by, and the materials considered by a committee are not subject to discovery or introduction into evidence in any civil action against a provider of professional health services arising out of the matters which are the subject of evaluation and review by the committee, and no person who was in attendance at a meeting of the committee shall be required to testify in any civil action as to any evidence or other matters produced or presented during the proceedings of the committee or as to any findings, recommendations, evaluations, opinions, or other actions of the committee or its members. However, information, documents, or records otherwise available are not immune from discovery or use in a civil action merely because they were presented during proceedings of the committee nor should any person who testifies before the committee or who is a member of the committee be prevented from testifying as to matters within his knowledge, but the witness cannot be asked about his testimony before the committee or opinions formed by him as a result of the committee hearings."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of June, 1981.
H. B. 1125  CHAPTER 726
AN ACT CONCERNING WEIGHT LIMITS FOR MOTOR VEHICLES HAULING FOREST PRODUCTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-118(5) is amended by rewriting the seventh sentence of that subdivision to read: "Provided further that a truck or other motor vehicle whose axle weight exceeds that prescribed for light-traffic roads shall be exempt from such limitations when transporting meats and row crop products originating from a farm, or forest products originating from a farm or from woodlands, on a light-traffic road to the nearest State maintained road which is not posted to prohibit the transportation of statutory legal local limits."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of June, 1981.

H. B. 1165  CHAPTER 727
AN ACT TO AMEND G.S. 20-79.2 RELATING TO TRANSPORTER REGISTRATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-79.2(a) is amended by striking the word "such" appearing in line 4 thereof immediately after the word "of" and immediately before the word "motor".

Sec. 2. G.S. 20-79.2(a)(5) is hereby amended by striking the words "owned or controlled by the registrant" appearing in lines 5 and 6 thereof.

Sec. 3. This act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 29th day of June, 1981.

H. B. 1182  CHAPTER 728
AN ACT TO REQUIRE AN APPLICANT FOR VEHICLE REGISTRATION TO CERTIFY THAT NO DELINQUENT PROPERTY TAXES ARE OWED ON THE VEHICLE AND THAT THE VEHICLE HAS BEEN LISTED FOR PROPERTY TAXES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 20 of the General Statutes is amended by adding a new section to be designated G.S. 20-50.2 and to read:

"§ 20-50.2. Applicant to certify as to ad valorem taxes on vehicle.—(a) Every owner of a vehicle when applying for registration or renewal of registration shall, in addition to complying with any other requirements of this Article, provide the following information on the application form:

(1) A certification statement setting forth the month and year and the name of the county in which the vehicle is listed for property taxes, if the applicant owned the vehicle on the most recent January 1 preceding the date on which the application is made; and

(2) A certification statement that no delinquent county or municipal property taxes are owed on the vehicle in the name of the applicant.

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For purposes of this section, property taxes are considered 'delinquent' when they are no longer payable at par in accordance with G.S. 105-360(a).

The Department of Transportation shall provide a place on the vehicle registration application form for the certification statements required by this section, and the statement shall appear on the form in substantially the following language:

'I owe no delinquent county or municipal taxes on this vehicle. I was the legal owner of this vehicle on January 1st of the year of this application and the vehicle was listed for property taxes in ________ County in (Month) (Year).

I was not the legal owner of this vehicle on January 1. ( ) (Check Block).

(b) If the applicant fails to provide any of the information required by this section, then the Division of Motor Vehicles shall refuse registration until such time as the applicant provides the information so required.

(c) Any applicant who shall make a false certification concerning the information required by this section shall be guilty of a misdemeanor and upon conviction shall be subject to a fine not to exceed one hundred dollars ($100.00) or imprisonment not to exceed six months, or both such fine and imprisonment."

Sec. 2. This act shall become effective on January 1, 1982.

In the General Assembly read three times and ratified, this the 29th day of June, 1981.

H. B. 1183 CHAPTER 729
AN ACT AMENDING THE LAW RELATING TO CHAINS ON HUNTING TRAPS.

The General Assembly of North Carolina enacts:

Section 1. The last sentence of G.S. 113-291.6(b) is amended to read:

"A steel-jaw or leghold trap set on dry land with solid anchor may not have a trap chain longer than eight inches from trap to anchor unless fitted with a shock absorbing device approved by the Wildlife Resources Commission."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of June, 1981.

H. B. 1197 CHAPTER 730
AN ACT TO CLARIFY THE PROVISIONS OF G.S. 115C-316 REGARDING SALARY AND VACATION OF CERTAIN SCHOOL EMPLOYEES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-316(a)(2) as it appears in Chapter 423 of the 1981 Session Laws is amended by rewriting the portion of the first sentence up to the colon to read:

"School employees other than those covered in G.S. 115C-272(b)(1), 115C-285(a)(1) and (2), 115C-302(a)(1) and (2) and 115C-316(a)(1) shall be paid at a time determined by each local board of education and expenditures from state funds shall be within allocations made by the State Board of Education and in accordance with rules and regulations approved by the State Board of Education concerning allocations of State funds."
Sec. 2. This act shall become effective July 1, 1981.
In the General Assembly read three times and ratified, this the 29th day of June, 1981.

H. B. 1199  CHAPTER 731
AN ACT TO AMEND G.S. 115C-325 TO PROVIDE FOR REDUCTION IN FORCE OF SCHOOL EMPLOYEES DUE TO LACK OF FUNDS.
The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-325(e)(1) 1., as enacted by Chapter 423 of the 1981 Session Laws, is rewritten to read:
"1. A justifiable decrease in the number of positions due to district reorganization, decreased enrollment, or decreased funding, provided that there is compliance with subdivision (2)."

Sec. 2. This act shall become effective July 1, 1981.
In the General Assembly read three times and ratified, this the 29th day of June, 1981.

H. B. 1204  CHAPTER 732
AN ACT TO DEFINE "COUNTERFEIT CONTROLLED SUBSTANCE" IN THE NORTH CAROLINA CONTROLLED SUBSTANCES ACT.
The General Assembly of North Carolina enacts:

Section 1. G.S. 90-87(6) is rewritten to read:
"(6) 'Counterfeit controlled substance' means:
a. A controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed, or dispensed such substance and which thereby falsely purports, or is represented to be the product of, or to have been distributed by, such other manufacturer, distributor, or dispenser; or
b. Any substance which is by any means intentionally represented as a controlled substance. It is evidence that the substance has been intentionally misrepresented as a controlled substance if the following factors are established:
1. The substance was packaged or delivered in a manner normally used for the illegal delivery of controlled substances.
2. Money or other valuable property has been exchanged or requested for the substance, and the amount of that consideration was substantially in excess of the reasonable value of the substance.
3. The physical appearance of the tablets, capsules or other finished product containing the substance is substantially identical to a specified controlled substance."

Sec. 2. This act shall become effective October 1, 1981.
In the General Assembly read three times and ratified, this the 29th day of June, 1981.
H. B. 1253

CHAPTER 733

AN ACT TO PROVIDE AN EXTENDED DEADLINE FOR CREATION FOR FISCAL YEAR 1981-82 OF A MUNICIPAL SERVICE DISTRICT FOR BEACH EROSION CONTROL OR FLOOD OR HURRICANE PROTECTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-537, as amended by Chapter 53, Session Laws of 1981, is further amended by adding a new subsection (e) to read:

“(e) In the case of a resolution defining a service district, which is adopted during the period beginning July 1, 1981, and ending July 31, 1981, and which district is for any purpose defined in G.S. 160A-536(1), the city council may make the resolution effective for the fiscal year beginning July 1, 1981. In any such case, the report under subsection (b) of this section need only have been available for public inspection for at least two weeks before the date of the public hearing, and the notice required by subsection (c) of this section need only have been mailed at least two weeks before the date of the hearing.”

Sec. 2. Any city defining a municipal service district under the provisions of Section 1 of this act may adopt a budget for fiscal year 1981-82 and levy a tax for such service district, separately from adoption of the city budget, as long as the budget for the service district is adopted and the tax is levied no later than July 31, 1981.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of June, 1981.

S. B. 206

CHAPTER 734

AN ACT TO EXTEND TIME LIMITATIONS FOR PROOF IN ASBESTOSIS AND SILICOSIS CLAIMS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 97-58(a) is rewritten to read as follows:

“(a) Except as otherwise provided in G.S. 97-61.6, an employer shall not be liable for any compensation for asbestosis unless disablement or death results within ten years after the last exposure to that disease, or, in case of death, unless death follows continuous disablement from such disease, commencing within the period of ten years limited herein, and for which compensation has been paid or awarded or timely claim made. An employer shall not be liable for any compensation for lead poisoning unless disablement or death results within two years after the last exposure to that disease, or, in case of death, unless death follows continuous disablement from such disease, commencing within the period of two years limited herein, and for which compensation has been paid or awarded or timely claim made.”

Sec. 2. This act shall become effective July 1, 1981, and apply to claims filed with the Industrial Commission on and after that date.

In the General Assembly read three times and ratified, this the 29th day of June, 1981.
S. B. 574  

CHAPTER 735  

AN ACT CONCERNING THE VISITATION RIGHTS OF GRANDPARENTS.

The General Assembly of North Carolina enacts:

Section 1. The caption to G.S. 50-13.2 is rewritten to read:
"§ 50-13.2. Who entitled to custody, terms of custody; visitation rights of grandparents; taking child out of State."

Sec. 2. G.S. 50-13.2 is amended by adding a new subsection (b1) to read:
"(b1) An order for custody of a minor child may provide visitation rights for any grandparent of the child as the court, in its discretion, deems appropriate."

Sec. 3. G.S. 50-13.5(j) is rewritten to read:
"(j) Custody and Visitation Rights of Grandparents. In any action in which the custody of a minor child has been determined, upon a motion in the cause and a showing of changed circumstances pursuant to G.S. 50-13.7, the grandparents of the child are entitled to such custody or visitation rights as the court, in its discretion, deems appropriate."

Sec. 4. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 29th day of June, 1981.

S. B. 646  

CHAPTER 736  

AN ACT TO AMEND G.S. 20-119 RELATING TO SPECIAL PERMITS FOR VEHICLES OF EXCESSIVE SIZE OR WEIGHT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-119 as appears in the 1978 Replacement Volume 1C of the North Carolina General Statutes, is hereby amended by inserting after the word "weight" appearing at the end of line 4 thereof the words "or number of units".

Sec. 2. G.S. 20-119 is further amended by adding a new sentence at the end of the first sentence to read as follows: "However, the Department is not authorized to issue any permit to operate or move over the State highways twin trailers, commonly referred to as double bottom trailers."

Sec. 3. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 29th day of June, 1981.

S. B. 54  

CHAPTER 737  

AN ACT TO PERMIT THE CREATION OF A SUPPLEMENTAL RETIREMENT PLAN FOR CERTAIN POLICEMEN OF THE CITY OF ASHEVILLE AT SUCH TIME AS MEMBERS OF THE ASHEVILLE POLICEMEN'S PENSION AND DISABILITY FUND ELECT TO PARTICIPATE IN THE NORTH CAROLINA LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding any provisions of Article 3 of Chapter 128 of the General Statutes to the contrary, the city of Asheville may establish and fund a supplemental retirement plan to be composed of and limited to active
members of the Asheville Policemen's Pensions and Disability Fund who were members of the Law Enforcement Officers' Benefit and Retirement Fund at such time as the membership of the Asheville Policemen's Pension and Disability Fund participates in the North Carolina Local Governmental Employees' Retirement System pursuant to G.S. 128-25.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1981.

S. B. 610  CHAPTER 738
AN ACT TO RAISE THE EXAMINATION FEE FOR PSYCHOLOGISTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-270.11(a)(1) and G.S. 90-270.11(b)(1) are amended by deleting the words “examination fee of fifty dollars ($50.00)” and substituting “examination fee of sixty dollars($60.00)”.  

Sec. 2. G.S. 90-270.11(a)(2) is amended by deleting the words “fifty dollars ($50.00)” and substituting “sixty dollars ($60.00)”.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1981.

S. B. 637  CHAPTER 739
AN ACT TO INCREASE FEES TO BE PAID TO THE STATE LICENSING BOARD FOR GENERAL CONTRACTORS.

The General Assembly of North Carolina enacts:

Section 1. The first sentence of G.S. 87-10 is rewritten to read:

“Anyone seeking to be licensed as a general contractor in this State shall file an application for an examination on a form provided by the Board, at least 30 days before any regular or special meeting of the Board accompanied by an examination fee of twenty-five dollars ($25.00) and by the sum of one hundred dollars ($100.00) if the application is for an unlimited license, the sum of seventy-five dollars ($75.00) if the application is for an intermediate license or the sum of fifty dollars ($50.00) if the application is for a limited license; the fees and sum accompanying any application shall be nonrefundable. The holder of an unlimited license shall be entitled to act as general contractor without restriction as to value of any single project; the holder of an intermediate license shall be entitled to act as general contractor for any single project with a value of up to five hundred thousand dollars ($500,000); the holder of a limited license shall be entitled to act as general contractor for any single project with a value of up to one hundred seventy-five thousand dollars ($175,000); and the license certificate shall be classified in accordance with this section.”

Sec. 2. The last paragraph of G.S. 87-10 is amended by deleting the words “without additional fee” and substituting: “upon payment of an examination fee of twenty-five dollars ($25.00). Anyone requesting to take the examination a third or subsequent time shall submit a new application with the appropriate examination and license fees”; by deleting the words “sixty dollars ($60.00)”, “forty dollars ($40.00)”, and “twenty dollars ($20.00)” and substituting the words “seventy-five dollars ($75.00)”, “fifty dollars ($50.00)”,

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and "twenty-five dollars ($25.00)" respectively; and by adding new sentences, at the end, to read: "Renewal applications received by the Board after January shall be accompanied by a late payment of ten dollars ($10.00) for each month or part after January. After a lapse of two years no renewal shall be effected and the applicant shall fulfill all requirements of a new applicant as set forth in this section."

Sec. 3. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 30th day of June, 1981.

S. B. 659

CHAPTER 740

AN ACT PROTECTING WATERFOWL WITHIN A 500 YARD RADIUS OF THE ROCKY MOUNT TAR RIVER RESERVOIR IN NASH COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It is unlawful:

(1) To take, as defined in G.S. 113-130(7), any birds of the anitadae family (ducks, geese, brant and swans) on or from the City of Rocky Mount Tar River Reservoir in Nash County or on or from all land within 500 yards of the property line of the Reservoir (except as provided in Section 4 below); or

(2) To take, as defined in G.S. 113-130(7), any birds of any anitadae family (ducks, geese, brant and swans) if any birds are on or over the City of Rocky Mount Tar River Reservoir in Nash County or on or over the land within 500 yards of the property line of the Reservoir (except as provided in Section 4 below); or

(3) To destroy, rob or molest the eggs, nests or breeding places of any birds of the anitadae family (ducks, geese, brant and swans) on or in the City of Rocky Mount Tar River Reservoir in Nash County or within 500 yards of the property line of the Reservoir.

Sec. 2. Violation of this act is a misdemeanor punishable by imprisonment for not more than 30 days, a fine of not more than five hundred dollars ($500.00), or both, in the discretion of the court.

Sec. 3. All lawful peace officers of the city, county and State who are authorized to enforce the hunting laws are authorized to enforce this act.

Sec. 4. The provisions of Section 1 of this act shall not apply to the area of the City of Rocky Mount Tar River Reservoir designated by the City as Zone E, nor the area within 500 yards of the property line of Zone E defined by extending the Zone E line across the Reservoir to and with the 500 yard line for Zone E. The hunting of waterfowl on or from Zone E of the City of Rocky Mount Reservoir or on or from all land within 500 yards of the property line of Zone E, as defined above, (whether birds are on or over either area) shall be subject to the rules and regulations of the City of Rocky Mount. Additionally, the hunting of waterfowl on or from the land within 500 yards of the property line of Zone E, as defined above, shall be lawful only with written permission of the respective landowners.

Sec. 5. This act shall become effective October 1, 1981.
In the General Assembly read three times and ratified, this the 30th day of June, 1981.
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S. B. 708  CHAPTER 741
AN ACT TO PROVIDE CONTINUITY FOR ELECTION PROCEDURES IN THE EVENT OF COURT RULINGS.

The General Assembly of North Carolina enacts:

Section 1. Article 3 of Chapter 163 of the General Statutes is amended to add a new section to read:

"§ 163-22.2. Power of State Board to promulgate temporary rules and regulations.—In the event any portion of Chapter 163 of the General Statutes is held unconstitutional or invalid by a State or federal court and such ruling adversely affects the conduct and holding of any pending primary or election, the State Board of Elections shall have authority to make reasonable interim rules and regulations with respect to the pending primary or election as it deems advisable so long as they do not conflict with any provisions of Chapter 163 of the General Statutes and such rules and regulations shall become null and void upon the convening of the next session of the General Assembly. The State Board of Elections shall also be authorized, upon recommendation of the Attorney General, to enter into agreement with the courts in lieu of protracted litigation until such time as the General Assembly convenes."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1981.

S. B. 738  CHAPTER 742
AN ACT TO REVISE THE MANNER OF ELECTION OF THE WAKE COUNTY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. Section 5 of Chapter 717, Session Laws of 1975 is rewritten to read:

"Sec. 5. (a) The following nine voting districts are established for the purpose of electing a school board member for each voting district:

(1) District 1 shall consist of the following precincts: Little River - Mitchell’s Mill, Little River - Zebulon, Mark’s Creek - Eagle Rock, Mark’s Creek - Wendell, Wake Forest - Rolesville, Wake Forest - Wake Forest, St. Matthews #4, New Light - Robertson’s Store, New Light - Stoney Hill, and Barton’s Creek.

(2) District 2 shall consist of the following precincts: St. Matthews #1, #2, and #3, St. Mary’s Auburn, St. Mary’s Garner, St. Mary’s #3, #4, #5, and #6.

(3) District 3 shall consist of the following precincts: House Creek #3 and #4, Raleigh #37, #39, #42, #43, #44, and #45, and Neuse River.

(4) District 4 shall consist of the following precincts: Raleigh #19, #20, #22, #28, #34, #38, and #40.

(5) District 5 shall consist of the following precincts: Raleigh #7, #8, #9, #10, #13, #21, #24, #25, #26, #27, and #35.

(6) District 6 shall consist of the following precincts: Raleigh #1, #2, #3, #4, #5, #6, #11, #12, #15, #17, #18, #23, #30, and #36.

(7) District 7 shall consist of the following precincts: House Creek #1 and #2, Raleigh #16, #29, #31, #32, #33, and #41, and Meredith.

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(8) District 8 shall consist of the following precincts: Buckhorn, Holly Springs, Middle Creek - Five Points, Middle Creek - Fuquay, Panther Branch, Swift Creek, and White Oak.

(9) District 9 shall consist of the following precincts: Cary #1, #2, #3, #4, and #5, Cedar Fork, and Leesville.

(b) Whenever the Wake County Board of Elections divides a precinct into two or more precincts, they shall remain in the district specified in subsection (a) of this section. Whenever the Wake County Board of Elections combines two or more precincts which are in the same district, they shall remain in the district specified in subsection (a) of this section. Whenever the Wake County Board of Elections changes the boundary between two or more precincts, all of which are in the same district, they shall remain in the district specified in subsection (a) of this section.

(c) Whenever the Wake County Board of Elections changes the boundaries of precincts or combines precincts in a manner not specified in subsection (b) of this section, the Board of Commissioners of Wake County may by resolution adjust the boundaries of an electoral district accordingly, but no such change shall affect the right of an incumbent to complete a term."

Sec. 2. Section 6 of Chapter 717, Session Laws of 1975, as amended by Section 1 of Chapter 321, Session Laws of 1977, is rewritten to read:

"Sec. 6. All terms of office of members of the Wake County Board of Education shall begin on the first Monday in December following their election. Districts 1, 2, 7, and 9 shall elect a member in 1981 and quadrennially thereafter for a four-year term. Districts 3, 4, 5, 6, and 8 shall elect a member in 1981 for a two-year term and in 1983 and quadrennially thereafter for a four-year term."

Sec. 3. Section 7 of Chapter 717, Session Laws of 1975, as amended by Sections 2 and 3 of Chapter 321, Session Laws of 1977, is rewritten to read:

"Sec. 7. (a) In 1981, and biennially thereafter, members of the Wake County Board of Education shall be elected by the nonpartisan election and runoff election method in accordance with G.S. 163-279(a)(4), G.S. 163-293, and G.S. 163-294.2, except that only persons who are registered to vote in the district shall be permitted to file a notice of candidacy for election in that district. Such election shall be governed by the provisions of Chapter 163 of the General Statutes.

(b) The qualified voters of each district shall elect a person who resides in that district for the seat apportioned to that district. Only the qualified voters of the district may vote in that election."

Sec. 4. The first sentence of Section 8 of Chapter 717, Session Laws of 1975, as amended by Section 4 of Chapter 321, Session Laws of 1977, is rewritten to read:

"Beginning with the 1981 election, members of the Wake County Board of Education shall hold office for terms as provided in Section 6 of this act."

Sec. 5. The terms of all members of the Wake County Board of Education shall terminate on the first Monday in December of 1981. All vacancies occurring prior to that date shall be filled in accordance with law by using the district boundaries in existence prior to ratification of this act.

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1981.

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H. B. 1043  CHAPTER 743

AN ACT TO AMEND CHAPTER 721 OF THE 1979 SESSION LAWS RELATING TO HUNTING WITH RIFLES IN CERTAIN TOWNSHIPS OF MOORE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 721 of the 1979 Session Laws is amended to read:

"Section 1. It is unlawful to hunt with any rifle that has a bore larger than twenty-two (.22) caliber or to hunt with any rifle which is capable of firing twenty-two (.22) caliber center fire ammunition."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1981.

H. B. 1129  CHAPTER 744

AN ACT TO CORRECT TECHNICAL ERRORS IN G.S. 141-7.1.

The General Assembly of North Carolina enacts:

Section 1. G.S. 141-7.1, as the same appears in the 1979 Cumulative Supplement to Volume 3C of the General Statutes, is amended:

a. on line 4 by deleting the word "existing";

b. on line 5 by changing the figure "50.721" to read "50.7214";

c. on line 6 by changing the word "and" to read ", at";

d. on line 6 by inserting immediately after the word "West," and immediately prior to the word "in" the words "and at latitude 33 deg. 51 min. 07.8792 sec. North, longitude 78 deg. 32 min. 32.6210 sec. West."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1981.

H. B. 1151  CHAPTER 745

AN ACT TO HAVE ADDRESSES ADDED TO JUDGMENT DOCKET ENTRIES AND TO PROVIDE FOR TIMELY ENTRY OF PAYMENT ON THE JUDGMENT DOCKET.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1-233 is amended by rewriting the second sentence thereof to read:

"The entry must contain the names of the parties, the address, if known, of each party against whom judgment is rendered, and the relief granted, date of judgment, and the date, hour and minute of docketing; and the clerk shall keep a cross-index of the whole, with the dates and numbers thereof; however, error or omission in the entry of the address or addresses shall in no way affect the validity, finality or priority of the judgment docketed."

Sec. 2. G.S. 1-239 is amended by adding a new subsection to read:

"(c) Upon receipt by the judgment creditor of any payment of money upon a judgment, the judgment creditor shall within 60 days after receipt of the payment give satisfactory notice thereof to the clerk of the superior court in which the judgment was rendered, and the clerk shall thereafter promptly
enter the payment on the judgment docket of the court, and the clerk shall immediately forward a certificate thereof to the clerk of the superior court of each county to whom a transcript of the judgment has been sent, and the clerk of each superior court shall thereafter promptly enter the same on the judgment docket of the court and file the original with the judgment roll in the action. If the judgment creditor fails to file the notice required by this subsection within 30 days following written demand by the debtor, he may be required to pay a civil penalty of one hundred dollars ($100.00) in addition to attorneys' fees and any loss caused to the debtor by such failure."

Sec. 3. This act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 30th day of June, 1981.

H. B. 1186

CHAPTER 746

AN ACT TO REQUIRE PRICES OF ALL MIXED BEVERAGES TO BE PRINTED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18A-30(7) is amended by adding a new paragraph thereto to read:

"Each mixed beverages permittee shall have available for its customers the printed prices of the most common or popular mixed beverages offered for sale by the permittee. Violation of this provision shall not be a criminal offense, but shall be subject to administrative action by the State Board under G.S. 18A-43."

Sec. 2. G.S. 18B-1007, as that statute appears in Section 2 of Chapter 412 of the 1981 Session Laws, is amended by adding a new subsection to read:

"(c) Price List. Each mixed beverages permittee shall have available for its customers the printed prices of the most common or popular mixed beverages offered for sale by the permittee. Violation of this subsection shall not be a criminal offense, but shall be punishable under G.S. 18B-104."

Sec. 3. This act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 30th day of June, 1981.

H. B. 1220

CHAPTER 747

AN ACT TO AMEND THE LIQUOR TAXATION STATUTES TO CONFORM TO THE REVISION OF THE ALCOHOLIC BEVERAGE CONTROL LAWS ENACTED BY CHAPTER 412 OF THE 1981 SESSION LAWS, AND TO MAKE TECHNICAL AND CLARIFYING CHANGES TO CHAPTER 412.

The General Assembly of North Carolina enacts:

Section 1. Article 2C of Chapter 105 of the General Statutes is amended by changing the title of the Article to: "Schedule B-C. Alcoholic Beverages Tax."

Sec. 2. G.S. 105-113.68 is rewritten to read:

"§ 105-113.68. Definitions.—(a) As used in this Article:

(1) 'Alcoholic beverage' means any beverage containing at least one-half of one percent (0.5%) alcohol by volume, including malt beverages, unfortified wine, fortified wine, spirituous liquor, and mixed beverages.
(2) 'Fortified wine' means any wine made by fermentation from grapes, fruits, berries, rice, or honey, to which nothing has been added other than pure brandy made from the same type of grape, fruit, berry, rice, or honey that is contained in the base wine, and which has an alcoholic content of not more than twenty-four percent (24%) alcohol by volume.

(3) 'License' means a written or printed certificate issued pursuant to this Article by the Secretary of Revenue or by a city or county, which allows a person to engage in some phase of the alcoholic beverage industry.

(4) 'Malt beverage' means beer, lager, malt liquor, ale, porter, and any other brewed or fermented beverage containing at least one-half of one percent (0.5%) and not more than six percent (6%) alcohol by volume.

(5) 'Person' means an individual, firm, partnership, association, corporation, other organization or group, or other combination of individuals acting as a unit.

(6) 'Sale' means any transfer, trade, exchange, or barter, in any manner or by any means, for consideration.

(7) 'Spirituous liquor' or 'liquor' means distilled spirits or ethyl alcohol, including spirits of wine, whiskey, rum, brandy, gin and all other distilled spirits and mixtures of cordials, liqueur, and premixed cocktails, in closed containers for beverage use regardless of their dilution.

(8) 'Unfortified wine' means wine that has an alcoholic content produced only by natural fermentation or by the addition of pure cane, beet, or dextrose sugar, and that has an alcoholic content of not less than six percent (6%) and not more than seventeen percent (17%) alcohol by volume.

(b) All alcoholic beverages shall be taxed as provided in this Article whether or not meeting all criteria of the definitions in subsection (a).

(c) All references in this Article to permits are to the ABC permits provided for and defined in Articles 9, 10 and 11 of Chapter 18B."

Sec. 3. G.S. 105-113.69 is rewritten to read:

"§ 105-113.69. Requirements, effect of revenue license.—(a) A license required by this Article is a license for the same activity that is authorized by the equivalent ABC permit. No license may be issued under this Article until the applicant has received from the Alcoholic Beverage Control Commission the applicable ABC permit for that activity. The qualifications for a revenue license are the same as for the equivalent ABC permit. Each person receiving an ABC permit must apply for and pay the fee for the equivalent license or licenses under this Article. Upon proper application and payment of the prescribed fee, issuance of a revenue license is mandatory if the applicant has received and remains presently qualified for the equivalent ABC permit.

(b) Unless otherwise stated, all revenue licenses are annual licenses for the period from May 1 to April 30.

(c) Neither the State nor any local government may require any revenue license for activities related to the manufacture or sale of alcoholic beverages other than the licenses stated in this Article.

(d) Failure to secure a license required by this Article is a misdemeanor."

Sec. 4. G.S. 105-113.70 is rewritten to read:

"§ 105 113.70. State brewery and unfortified winery licenses.—(a) Each person holding a brewery permit must secure from the Secretary of Revenue a
State brewery license. The annual fee for this license is five hundred dollars ($500.00).

(b) The holder of a State brewery license may sell, deliver and ship malt beverages only to wholesalers licensed under this Article, except that malt beverages may be sold to nonresident wholesalers when the purchase is not for resale in this State.

c) Each person holding an unfortified winery permit must secure from the Secretary of Revenue a State unfortified winery license. The annual fee for this license is one hundred dollars ($100.00).

d) The holder of a State unfortified winery license may sell, deliver and ship unfortified wine only to wholesalers licensed under this Article, except that wine may be sold to nonresident wholesalers when the purchase is not for resale in this State. The holder of a State unfortified winery license may also ship his wine to individual purchasers inside and outside this State.

e) No State license is required for an individual who makes native wines and malt beverages for his own use and the use of his family and guests as provided in G.S. 18B-306. Native wines are wines made principally from honey, grapes, or other fruit or grain grown in this State, or from wine kits containing honey, grapes, or other fruit or grain concentrates, and which have only that alcoholic content produced by natural fermentation."

Sec. 5. G.S. 105-113.71 is rewritten to read:

"§ 105-113.71. State bottler license.—Each person holding a bottler permit must secure from the Secretary of Revenue a State bottler license. The annual fee for this license is two hundred fifty dollars ($250.00). The holder of a bottler license may sell, and deliver malt beverages, unfortified wine and fortified wine only to wholesalers licensed under this Article."

Sec. 6. G.S. 105-113.72 is rewritten to read:

"§ 105-113.72. State fortified winery and distillery licenses.—(a) Each person holding a fortified winery permit must secure from the Secretary of Revenue a State fortified winery license. The annual fee for this license is one hundred dollars ($100.00).

(b) The holder of a State fortified winery license may sell, deliver and ship fortified wine only to wholesalers licensed under this Article, except that wine may be sold to nonresident wholesalers when the purchase is not for resale in this State. The holder of a State fortified winery license may also ship his wine to individual purchasers inside and outside this State.

(c) Each person holding a distillery permit must secure from the Secretary of Revenue a State distillery license. The annual fee for this license is one hundred dollars ($100.00).

(d) Each person holding a fuel alcohol permit must secure from the Secretary of Revenue a State fuel alcohol license. The annual fee for this license is ten dollars ($10.00)."

Sec. 7. G.S. 105-113.73 is rewritten to read:

"§ 105-113.73. Malt beverage and wine wholesaler licenses.—(a) Each person holding a malt beverage wholesaler permit must secure from the Secretary of Revenue a State malt beverages wholesaler license. The annual fee for this license is one hundred fifty dollars ($150.00).

(b) Each person holding a wine wholesaler permit must secure from the Secretary of Revenue a State wine wholesaler license. The annual fee for this license is one hundred fifty dollars ($150.00)."
(c) The total annual fee for a person who secures both a State malt beverage wholesaler and State wine wholesaler license for the same business for the same year is two hundred fifty dollars ($250.00).

(d) The holder of a wholesaler license may sell, deliver, and ship his products only to wholesalers and retailers licensed under this Article, except that sales may also be made to his employees as provided in G.S. 18B-1107(3) and 18B-1109(a)(3). A malt beverage wholesaler may not sell to wholesalers and retailers less than one case or container at a time.

(e) A wholesaler who maintains more than one place of business or storage warehouse from which orders are received or beverages are distributed must secure a separate State license for each of those places.

(f) A city may require city malt beverage and wine wholesaler licenses for businesses located in the city, but may not require a license for a business located outside the city to sell or deliver inside the city. The annual fee for a city license may not be more than twenty-five percent (25%) of the annual fee for the equivalent State license."

Sec. 8. G.S. 105-113.74 is repealed.

Sec. 9. G.S. 105-113.75 is rewritten to read:

"§ 105-113.75. Sales on railroad trains.—Each person operating a railroad train in this State on which malt beverages or unfortified wine are sold must secure from the Secretary of Revenue a State railroad sales license. The annual fee for this license is one hundred dollars ($100.00) for each railroad system over which cars are operated in this State. Each person required to secure a license under this section shall report to the Secretary of Revenue by the fifteenth day of each calendar month the sales for the previous month and the payment of the tax on those sales at the rate levied in this Article."

Sec. 10. G.S. 105-113.76 is rewritten to read:

"§ 105-113.76. State salesman license.—Each person holding a salesman permit or a vendor representative permit must secure from the Secretary of Revenue a State salesmen's license. A license may be issued only upon recommendation of the vendor whom the salesman or representative represents. The annual fee for this license is twelve dollars and fifty cents ($12.50). A person who holds more than one vendor representative permit is required to obtain only one State salesman license."

Sec. 11. G.S. 105-113.77 and 105-113.78 are repealed.

Sec. 12. G.S. 105-113.79 is rewritten to read:

"§ 105-113.79. City malt beverage and unfortified wine retail licenses.—(a) Each person holding any of the following ABC permits for an establishment located within a city must secure from the city a city license for that activity, with the annual fee for each license indicated next to the kind of license:

(1) on-premises malt beverage - $15.00;
(2) off-premises malt beverage - $5.00;
(3) on-premises unfortified wine - $15.00;
(4) off-premises unfortified wine - $10.00.

(b) The annual license fee stated in subsection (a) is the fee for the first license issued to a person. The fee for each additional license issued to that person for the same year is ten percent (10%) of the base license fee, that increase to apply progressively for each additional license."
Sec. 13. G.S. 105-113.80 is rewritten to read:
"§ 105-113.80. Application for city malt beverage or wine license.—Each person seeking a city malt beverage or wine license must complete and submit an application on a form prescribed by the city. The information required to be provided in the application shall be the same as required by the Alcoholic Beverage Control Commission for the equivalent permit."

Sec. 14. G.S. 105-113.81 is rewritten to read:
"§ 105-113.81. County malt beverage and unfortified wine licenses.—(a) Each person holding any of the following ABC permits must secure from the county in which the establishment is located a county license for that activity, with the annual fee for each license indicated next to the kind of license:

(1) on-premises malt beverage - $25.00;
(2) off-premises malt beverage - $5.00;
(3) on-premises unfortified wine - $25.00;
(4) off-premises unfortified wine - $25.00.

(b) Each person seeking a county license under this section or under G.S. 105-113.85 must complete and submit an application on a form prescribed by the county. The information required to be provided in the application shall be the same as required by the Alcoholic Beverage Control Commission for the equivalent permit. If the establishment for which the license is sought is located within a city, the application to the county must show that the equivalent city license has been issued. Issuance of the equivalent license by the city determines the right of the applicant to the county license upon compliance with the requirements of this Article."

Sec. 15. G.S. 105-113.82 is rewritten to read:
"§ 105-113.82. Issuance of local licenses mandatory.—(a) Except as provided in subsection (b), issuance of the city and county licenses provided in G.S. 105-113.73(f), 105-113.79, 105-113.81, and 105-113.85 is mandatory when the applicant has complied with the requirements of Chapter 18B and this Article. The governing board of a city or county may, however, refuse to issue a license if it finds that the applicant in the preceding year has committed any act or permitted any activity that would be grounds for suspension or revocation of his permit under G.S. 18B-104. Before denying the license, the governing board must give the applicant an opportunity to appear at a hearing before the board and to offer evidence. The applicant must be given at least 10 days' notice of the hearing. At the conclusion of the hearing the board must make written findings of fact based on the evidence at the hearing. The applicant may appeal the denial of a license to the superior court for that county, if notice of appeal is given within 10 days of the denial.

(b) The governing bodies of the following counties and cities in their discretion may decline to issue on-premises unfortified wine licenses: the counties of Alamance, Alexander, Ashe, Avery, Chatham, Clay, Duplin, Granville, Greene, Haywood, Jackson, Macon, Madison, McDowell, Montgomery, Nash, Pender, Randolph, Robeson, Sampson, Transylvania, Vance, Watonga, Wilkes, Yadkin; any city within any of those counties; and the cities of Greensboro, Aulander, Pink Hill, and Zebulon."

Sec. 16. G.S. 105-113.83 is rewritten to read:
"§ 105-113.83. State unfortified wine retail licenses.—(a) Each person holding an on-premises unfortified wine permit must secure from the Secretary of}
Revenue a State on-premises unfortified wine license. The annual fee for this license is twenty-five dollars ($25.00).

(b) Each person holding an off-premises unfortified wine permit must secure from the Secretary of Revenue a State off-premises unfortified wine license. The annual fee for this license is twenty dollars ($20.00).

(c) The holder of a license under this section may purchase unfortified wine only from a wholesaler or importer maintaining a place of business in this State and licensed under this Article."

Sec. 17. G.S. 105-113.84 is rewritten to read:

"§ 105-113.84. State malt beverage retail licenses.—(a) Each person holding either an on-premises or off-premises malt beverage permit must secure from the Secretary of Revenue a State retail malt beverage license. The annual fee for this license is twenty dollars ($20.00).

(b) The holder of a license under this section may purchase malt beverages only from a wholesaler or importer maintaining a place of business in this State and licensed under this Article."

Sec. 18. G.S. 105-113.85 is rewritten to read:

"§ 105-113.85. Fortified wine retail licenses.—(a) Each person holding an on-premises fortified wine permit must secure from the Secretary of Revenue a State on-premises fortified wine license. The person also must secure from the county in which the establishment is located a county on-premises fortified wine license and, if the establishment is located within a city, must secure from the city a city on-premises fortified wine license. The annual fee for the license is twenty-five dollars ($25.00) for the State license, twenty-five dollars ($25.00) for the county license, and fifteen dollars ($15.00) for the city license, except as provided in subsection (c).

(b) Each person holding an off-premises fortified wine permit must secure from the Secretary of Revenue a State off-premises fortified wine license. The person also must secure from the county in which the establishment is located a county off-premises fortified wine license and, if the establishment is located within a city, must secure from the city a city off-premises fortified wine license. The annual fee for the license is twenty dollars ($20.00) for the State license, twenty-five dollars ($25.00) for the county license, and ten dollars ($10.00) for the city license, except as provided in subsection (c).

(c) A person receiving State and local licenses under this section who also receives for the same business for the same year unfortified wine licenses for the same type of sales is required to pay only the fee for the unfortified wine licenses and may not be charged additional fees for the fortified wine licenses.

(d) The holder of a license under this section may purchase fortified wine only from a wholesaler or importer maintaining a place of business in this State and licensed under this Article."

Sec. 19. G.S. 105-113.86(l) is amended by deleting the words "intoxicating liquors" and substituting "alcoholic beverages".

Sec. 20. G.S. 105-113.86 is further amended by deleting subsections (q), (r), (s), (t), and (u).

Sec. 21. G.S. 105-113.88 is amended in the second sentence by deleting the phrase "one thousand dollars ($1,000)" and substituting "five thousand dollars ($5,000)", and is amended in the last sentence by placing a period after the word "thereof" and deleting the remainder of that sentence.
Sec. 22. G.S. 105-113.89 is rewritten to read:

"§ 105-113.89. State nonresident vendor license.—(a) Each person holding a nonresident malt beverage or wine vendor permit must secure from the Secretary of Revenue a State nonresident vendor license. The annual fee for this license is one hundred fifty dollars ($150.00), unless the vendor sells less than 500 cases of alcoholic beverages in North Carolina during the year, in which case the annual fee is twenty-five dollars ($25.00). A vendor who pays the lower annual fee must pay the one hundred twenty-five dollar ($125.00) difference between that and the higher fee once his sales reach 500 cases.

(b) The holder of a nonresident vendor license may sell, deliver and ship his product in this State only to wholesalers, importers, and bottlers maintaining places of business in this State and licensed under this Article. The holder of the nonresident vendor license shall include the number of his license on each invoice for alcoholic beverage sold, delivered or shipped to wholesalers, importers, or bottlers in this State.

(c) The Secretary of Revenue may require the holder of a license under this section to execute and deposit with the Secretary a bond in a sum not to exceed two thousand dollars ($2,000) conditioned upon the faithful compliance with the provisions of this Article, and particularly upon his making no sales of alcoholic beverages to any person in this State other than licensed wholesalers, importers, and bottlers. The Secretary may waive this bond entirely for a vendor who sells less than 500 cases of alcoholic beverages in North Carolina during the year."

Sec. 23. G.S. 105-113.90 is amended by deleting the words "wholesaler distributor" and substituting "wholesaler, importer, ".

Sec. 24. G.S. 105-113.91 is rewritten to read:

"§ 105-113.91. State malt beverage and wine importers licenses.—Each person holding a malt beverages or wine importer permit must secure from the Secretary of Revenue a State importer’s license. The annual fee for this license is one hundred fifty dollars ($150.00)."

Sec. 25. G.S. 105-113.92 is repealed.

Sec. 26. G.S. 105-113.93 is amended by deleting the phrase "G.S. 18A-2(6)" at the end of the first paragraph and substituting "G.S. 18B-101(10)".

Sec. 27. G.S. 105-113.96 is rewritten to read:

"§ 105-113.96. Exemption from tax for sacramental wine.—The tax levied in this Article upon the sale of unfortified and fortified wine does not apply to wine received for use for sacramental purposes under G.S. 18B-103(8)."

Sec. 28. G.S. 105-113.98 is amended in the first sentence by inserting the word "not" between the words "merchandise" and "taxable".

Sec. 29. G.S. 105-113.99 is amended by rewriting the last sentence to read:

"A license may not be transferred from one person to another or from one location to another."

Sec. 30. G.S. 105-113.102 is amended in the first sentence by deleting the phrase "Chapter 18A" and substituting "Chapter 18B".

Sec. 31. G.S. 105-113.103 is amended by deleting the words "State Board of Alcoholic Control" and substituting "Alcoholic Beverage Control Commission"; and by deleting the word "Board" each place it appears in that section and substituting "Commission".

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Sec. 32. G.S. 105-113.104 is amended by deleting the last two sentences of that section and substituting the following:

"The Secretary of Revenue may suspend or revoke any State license issued under this Article for up to three years for a violation of any provision of this Article or of Chapter 18B. The Secretary also may suspend or revoke any State license for up to three years upon notification that the person holding the license has been convicted of a violation of this Article or Chapter 18B."

Sec. 33. G.S. 20-16(a)(8) is rewritten to read:

"(8) Has been convicted of illegal transportation of alcoholic beverages or has been convicted under G.S. 18B-302(e) or (f) of fraudulent use of a driver's license to obtain alcoholic beverages."

Sec. 34. G.S. 20-19(a) is amended by inserting the phrase "(8) or" between "subdivision" and "(9)".

Sec. 35. The references in Sections 36 through 63 of this act to Chapter 18B of the General Statutes or to particular Articles or sections of Chapter 18B are to that Chapter and those Articles and sections as enacted by Section 2 of Chapter 412 of the 1981 Session Laws, and the amendments to Chapter 18B shall be considered amendments to Section 2 of Chapter 412.

Sec. 36. G.S. 18B-103 is amended by adding a new subdivision to read:

"(9) The possession and use of beverages containing ethyl alcohol as authorized under G.S. 20-139.1(g)."

Sec. 37. G.S. 18B-108 is rewritten to read:

"§ 18B-108. Sales on trains.—Malt beverages and unfortified wine may be sold on railroad trains in this State upon receipt of the required revenue license under G.S. 105-113.75."

Sec. 38. G.S. 18B-203(a)(13) is amended by deleting the phrase "G.S. 18-206" and substituting "G.S. 18B-206".

Sec. 39. G.S. 18B-301(b)(2) and (c)(2) are each amended by deleting the word "entertainment" and substituting "purposes".

Sec. 40. G.S. 18B-302(e) is amended by rewriting the last sentence to read: "Conviction of a violation of this subsection shall be grounds for suspension of the defendant's driver's license for up to six months as provided in G.S. 20-16(a)(8)."

Sec. 41. G.S. 18B-302(f) is amended in the second sentence by adding the following between the word "months" and the period: "as provided in G.S. 20-16(a)(8)".

Sec. 42. G.S. 18B-304(a) is rewritten to read:

"(a) Offense. It shall be unlawful for any person to sell any alcoholic beverage, or possess any alcoholic beverage for sale, without first obtaining the applicable ABC permit and revenue licenses."

Sec. 43. G.S. 18B-306 is amended by rewriting the last sentence to read: "No ABC permit is required to make beverages pursuant to this section, and those beverages are exempt from taxation as provided in G.S. 105-113.70(e)."

Sec. 44. G.S. 18B-307 is amended by designating subsection (b) as subsection (c) and by adding a new subsection (b) to read:

"(b) Unlawful Manufacturing. Except as provided in G.S. 18B-306, it shall be unlawful for any person to manufacture any alcoholic beverage without first obtaining the applicable ABC permit and revenue licenses."

Sec. 45. G.S. 18B-401(b) is amended in the last sentence of that subsection by deleting the word "revocation" and substituting "suspension".
Sec. 46. G.S. 18B-404(b) is amended by rewriting the second sentence of that subsection to read: "If mixed beverages sales have been approved for an establishment under the last paragraph of G.S. 18B-603(d) or under G.S. 18B-603(e), the purchase-transportation permit for that establishment may be issued by the local board of any city located in the same county as the establishment, provided the city has approved the sale of mixed beverages."

Sec. 47. G.S. 18B-404 is further amended by adding a new subsection to read:

"(d) Size of Bottles. A purchase-transportation permit for a mixed beverages permittee shall authorize the purchase and transportation only of 750 milliliter or larger containers."

Sec. 48. G.S. 18B-504(d) is amended by adding the following between the first and second sentences of that subsection: "The officer may destroy stills and perishable materials seized under subdivision (a)(3), if storage is impractical and if the absence of the property will not be likely to adversely affect the defendant’s right to defend against the charge that is the basis for the forfeiture."

Sec. 49. G.S. 18B-600(c) is rewritten to read:

"(c) City Malt Beverage and Unfortified Wine Elections. A city may hold a malt beverage or unfortified wine election only if the county in which the city is located has already held such an election, the vote in the last county election was against the sale of that kind of alcoholic beverage, and:

1. The city has a population of 500 or more; or
2. The city operates an ABC store."

Sec. 50. G.S. 18B-700(a) is amended by changing the period at the end of the first sentence of that subsection to a comma and by adding the following after the comma: "or unless the board is a board for a merged ABC system under G.S. 18B-703 and a different size membership has been provided for as part of the negotiated merger."

Sec. 51. G.S. 18B-703(f) is amended by inserting between the words "board" and "or" the following: ", the size of the merged board,“."

Sec. 52. G.S. 18B-805(f) is rewritten to read:

"(f) Mixed Beverage Profit Shared. When, pursuant to the last paragraph of G.S. 18B-603(d), spirituous liquor is bought at a city ABC store by a mixed beverages permittee for premises located outside the city, the local board operating the store at which the sale is made shall retain seventy-five percent (75%) of the local share of the mixed beverages surcharge required by G.S. 18B-804(b)(8) and the remaining twenty-five percent (25%) shall be divided equally among the local ABC boards for all other cities in the county that have authorized the sale of mixed beverages.

When, pursuant to G.S. 18B-603(e), spirituous liquor is bought at a city ABC store by a mixed beverages permittee for premises located at an airport outside the city, the local share of the mixed beverages surcharge required by G.S. 18B-804(b)(8) shall be divided equally among the local ABC boards for all cities in the county that have authorized the sale of mixed beverages."

Sec. 53. G.S. 18B-900(a)(2) is amended by rewriting subdivision c. to read:

"c. He is applying for a nonresident malt beverage vendor permit, a nonresident wine vendor permit, or a vendor representative permit;".

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Sec. 54. G.S. 18B-900(d) is amended by adding the following between the word "old" and the period: "and shall meet the requirements of subdivisions (3), (4), (5) and (6) of subsection (a)".

Sec. 55. G.S. 18B-902(d) is amended by renumbering subdivision (24) as subdivision (27) and by adding new subdivisions (24) through (26) as follows:

"(24) Vendor representative permit — $25.00.
(25) Nonresident malt beverage vendor permit — $25.00.
(26) Nonresident wine vendor permit — $25.00."

Sec. 56. G.S. 18B-902(e) is amended by adding the following: "If application is made in the same year for vendor representative permits to represent more than one vendor, only one fee shall be paid. If application is made at the same time for nonresident malt beverage vendor and nonresident wine vendor permits, the total fee for those applications shall be twenty-five dollars ($25.00)."

Sec. 57. G.S. 18B-903 is amended by adding the following new subsection:

"(e) Transfer. An ABC permit may not be transferred from one person to another or from one location to another."

Sec. 58. G.S. 18B-904 is amended by rewriting the last sentence of subsection (c) to read: "Before the expiration of the six-month period, the Commission may waive this provision in individual cases for good cause."

Sec. 59. G.S. 18B-1100 is amended by deleting subsection (b); by deleting the phrase "(a) Types of permits."); and by adding new subdivisions to read:

"(13) Vendor representative
(14) Nonresident malt beverage vendor
(15) Nonresident wine vendor."

Sec. 60. G.S. 18B-1101 and 18B-1102 are each amended in subdivision (3) by deleting the phrase "If it is a resident North Carolina winery," and by capitalizing the first letter of the word "ship."

Sec. 61. G.S. 18B-1103(a) is amended by deleting the word "resident."

Sec. 62. G.S. 18B-1109(a)(2) is rewritten to read:

"(2) Sell, deliver and ship, in closed containers and in quantities of one case or container or more, malt beverages of any brand filed pursuant to subsection (b), to wholesalers or retailers licensed under this Chapter, as authorized by the ABC laws;".

Sec. 63. Article 11 of Chapter 18B is amended by renumbering G.S. 18B-1112, 18B-1113, and 18B-1114 as 18B-1115, 18B-1116, and 18B-1117, respectively, and by adding a new G.S. 18B-1112 through 18B-1114 to read:

"§ 18B-1112. Authorization of vendor representative permit.—(a) Authorized Acts. The holder of a vendor representative permit may represent a nonresident malt beverage or wine vendor, either as an employee or as an agent, to solicit orders for the vendor's product. The vendor representative may sell, deliver and ship alcoholic beverages in this State only to wholesalers, importers and bottlers.

(b) Number of Permits. A vendor representative shall secure a separate permit for each nonresident malt beverage or unfortified wine vendor he represents. A permit may not be issued without the approval of the vendor.

"§ 18B-1113. Authorization of nonresident malt beverage vendor permit.—The holder of a nonresident malt beverage vendor permit may sell, deliver and ship malt beverages in this State only to wholesalers, importers and bottlers
licensed under this Chapter, as authorized by the ABC laws. A nonresident malt beverage vendor permit may be issued to a brewery, importer or bottler outside North Carolina who desires to sell, deliver and ship malt beverages into this State.

"§ 18B-1114. Authorization of nonresident wine vendor permit.—The holder of a nonresident wine vendor permit may sell, deliver and ship unfortified and fortified wine in this State only to wholesalers, importers and bottlers licensed under this Chapter, as authorized by the ABC laws. A nonresident wine vendor permit may be issued to a winery, wholesaler, importer, or bottler outside North Carolina who desires to sell, deliver and ship unfortified and fortified wine into this State."

Sec. 64. Section 10 of Chapter 412 of the 1981 Session Laws is amended by adding the following paragraph:

"If the membership or method of appointment of a local ABC board is required to change by this act, the members serving on the board on January 1, 1982, may continue to serve until their present terms expire or until June 30, 1983, whichever occurs first. Thereafter vacancies on the board shall be filled by appointments made in the manner provided in this act. If, however, the size of the board is reduced by this act, no vacancy may be filled until the board has been reduced by vacancies to the size required by this act."

Sec. 65. Section 11 of Chapter 412 of the 1981 Session Laws is amended by adding the following paragraph:

"In addition, those portions of Section 2 that contain G.S. 18B-107, G.S. 18B-900(e), G.S. 18B-1000(7), and the portions of G.S. 18B-1001 concerning convention centers shall become effective July 1, 1981. Establishments qualifying as convention centers under G.S. 18B-1000(7) may be issued on-premises malt beverage, on-premises unfortified wine, special occasion, and mixed beverages permits from and after that date."

Sec. 66. Subdivision (4) of Section 4 of Chapter 412 of the 1981 Session Laws is rewritten to read:

"(4) The terms ‘intoxicating liquor’ and ‘liquor’, except when ‘liquor’ appears as part of the term ‘spirituous liquor’, are amended to read ‘alcoholic beverages’."

Sec. 67. Sections 1 through 34 of this act shall become effective January 1, 1982. State, city and county revenue licenses issued under Article 2C of Chapter 105 in effect on that date shall remain valid until they expire or until replaced by the equivalent license issued under this act. Each applicant for a new or replacement ABC permit under Article 11 of Chapter 18B shall pay the fee required by G.S. 18B-902(d). No fee may be charged for replacement after January 1, 1982, of a State, city or county revenue license that would otherwise be valid until April 30, 1982. Sections 35 through 67 of this act are effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1981.
AN ACT TO ALLOW THE TOWN OF TARBORO TO APPROVE WITHOUT INCURRING ANY OBLIGATION THEREFOR THE FORMATION OF A NONPROFIT CORPORATION THAT MAY ISSUE BONDS AND LEND THE PROCEEDS TO A DEVELOPER FOR USE IN FURTHERANCE OF THE PROVISIONS OF AN URBAN DEVELOPMENT ACTION GRANT.

Whereas, the Congress of the United States enacted the Housing and Community Development Act of 1977 (Public Law 95-128) which as amended authorized the Secretary of Housing and Urban Development (HUD) to make Urban Development Action Grants to severely distressed cities and towns which require increased public assistance and private investment to alleviate physical and economic deterioration; and

Whereas, assistance is being made available under this federal program for economic revitalization in competing communities throughout the nation with population out-migration or stagnating or declining tax base, and for reclamation of neighborhoods, having excessive housing abandonment or deterioration; and

Whereas, the Town of Tarboro (the Town) filed an application with the Department of Housing and Urban Development (HUD) and has received approval of said application for an Urban Development Action Grant (UDAG) and has executed a UDAG Grant Agreement with HUD; and

Whereas, the agreement with HUD calls for the acquisition of a site within the redevelopment area and the construction and equipment of a retirement home for the elderly thereon (the Project); and

Whereas, prevailing high interest rates make the financing of the project difficult and impractical, but, with the approval of the Town of Tarboro, a nonprofit corporation may be formed that will be able to issue bonds, with no obligation or liability of the Town for the payment thereof or interest thereon, the interest on which bonds will be exempt from federal income taxes, but not from income taxes of the State of North Carolina, making the financing of the project easier and practical, and the proceeds from the sale of said bonds may be loaned to a developer for the completion of the project in accordance with the said agreement with HUD; the reduction of interest costs will reduce the cost of the project and will reduce the cost to the residents of the retirement home; and the project will be subject to town and county ad valorem taxes; and

Whereas, the following is enacted for the purpose of insuring that the Town can legally give the approvals set forth therein, and can accept title to the project property upon the retirement of the bonds; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 1115 of the 1979 Session (2nd Session, 1980) is amended by deleting the word “and” at the end of subdivision (4), by changing the period at the end of subdivision (5) to a comma and by adding the word “and” at the end of subdivision (5), and by adding the following new subdivision at the end of subdivision (5) to read:

“(6) to approve the formation, organization and selection of directors of a nonprofit corporation to acquire title to properties within a redevelopment area, and to approve, without incurring any obligation therefor, the issuance of bonds by such nonprofit corporation and the lending of the bond proceeds to a developer for use in furtherance of the purposes of urban development action
grants authorized by the Housing and Community Development Act of 1977, and to accept title to the land and facilities acquired or constructed with the bond proceeds upon the retirement of the bonds and any other indebtedness with respect thereto.

The Town shall not be liable for the payment of said bonds or the interest or premiums thereon, and neither the officers, agents or employees of the Town nor of the nonprofit corporation shall be subject to any personal liability or accountability by reason of the issuance of or execution of the bonds."

Sec. 2. If any provision of this act is for any reason held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remainder of this act.

Sec. 3. This act shall apply only to the Town of Tarboro.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1981.

S. B. 744    CHAPTER 749

AN ACT TO AUTHORIZE THE DIRECTOR OF THE BUDGET TO CONTINUE EXPENDITURES FOR THE OPERATION OF STATE GOVERNMENT AT THE LEVEL IN EFFECT ON JUNE 30, 1981.

The General Assembly of North Carolina enacts:

Section 1. The Director of the Budget is authorized to continue to allocate funds for expenditure for current operations by State departments, institutions and agencies at a level not to exceed the level at which those operations were funded as of June 30, 1981. To the extent necessary to implement this authorization, funds currently available in the appropriate State funds and in cash balances, federal receipts, and departmental receipts shall be considered appropriated by the General Assembly. This authorization shall remain in effect until ratification of the current operations appropriations act for the 1981-83 biennium, at which time that act shall become effective and shall govern expenditures. Upon ratification of the current operations appropriations act, the Director of the Budget shall adjust allocations to give effect to that act from July 1, 1981. The authorization of this act also shall apply to expenditures under the control of the State Auditor and State Treasurer.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1981.
CHAPTER 750  Session Laws—1981

S. B. 50  CHAPTER 750

AN ACT TO PLACE THE PHRASE "FIRST IN FLIGHT" AND A
REPRESENTATION OF THE WRIGHT BROTHERS' AIRPLANE ON
REGISTRATION PLATES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-63 is amended by adding the following sentences to
the end of subsection (b):

"Subject to the provisions hereof, every private passenger vehicle and all
private hauler vehicles licensed for 4,000 pounds gross weight registration plate
manufactured for use after January 1, 1982, shall have the words 'First in
Flight' printed at the top of the plate above all other letters and numerals. The
background of the plate shall depict the Wright Brothers biplane flying over
Kitty Hawk Beach, with the plane flying slightly upward and to the right. The
Department shall deplete the license plates in stock, on order, or for which a
contract has been signed at the time of the ratification of this bill. Until all of
the license plates previously referred to have been depleted, all plates issued to
replace faded, worn-out or damaged plates shall be regular plates. Any person
desiring to trade in a regular plate and thereby secure a First in Flight plate
may do so by paying the fee provided in G.S. 20-85(5). As soon as feasible, but
not later than July 1, 1983, all newly issued plates shall be issued as First in
Flight plates; and as soon as feasible, but not later than January 1, 1984, all
Special Issue, official and personalized plates shall be issued as First in Flight
plates. Beginning July 1, 1983, the Department shall, as the same comes up for
renewal, begin systematically replacing all regular license plates with First in
Flight license plates beginning with the oldest series of existing plates and
continuing thereafter on a staggered basis."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of
July, 1981.

H. B. 287  CHAPTER 751

AN ACT TO AMEND CHAPTER 90, ARTICLE 2 OF THE GENERAL
STATUTES RELATING TO DENTISTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-22(b) is amended by striking the words "for the
unexpired term by a majority vote of the remaining members of the Board" on
lines 28 through 29 and substituting therefor the following: "by a majority vote
of the remaining members of the Board to serve until the next regular election
conducted by the Board, at which time the vacancy will be filled by the election
process provided for in this Article."

Sec. 2. G.S.90-22(c)(9) is rewritten to read as follows:

"(9)a. Where there is more than one nominee eligible for election to a single
seat:

1. The nominee receiving a majority of the votes cast shall be declared
elected.

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2. In the event that no nominee receives a majority, a second election shall be conducted between the two nominees who receive the highest number of votes.

b. Where there are more than two nominees eligible for election to either of two seats at issue in the same election:

1. A majority shall be any excess of the sum ascertained by dividing the total number of votes cast for all nominees by four.
2. In the event that more than two nominees receive a majority of the votes cast, the two receiving the highest number of votes shall be declared elected.
3. In the event that only one of the nominees receives a majority, he shall be declared elected and the Board of Dental Examiners shall thereupon order a second election to be conducted between the two nominees receiving the next to highest number of votes.
4. In the event that no nominee receives a majority, a second election shall be conducted between the four candidates receiving the highest number of votes. At such second election, the two nominees receiving the highest number of votes shall be declared elected.

c. In any election, if there is a tie between candidates, the tie shall be resolved by the vote of the Board of Dental Examiners, provided that if a member of that Board is one of the candidates in the tie, he may not participate in such vote.”

Sec. 3. G.S. 90-24 is amended on lines 1 and 3 by deleting the word “four” and replacing it with the words “a majority of the”.

Sec. 4. G.S. 90-26 is amended on line 4 by deleting the word “four” and replacing it with the words “majority of the”.

Sec. 5. The second paragraph of G.S. 90-30 is amended on line 1 by deleting the number “21” and substituting therefor the number “18”.

Sec. 6. G.S. 90-36 is amended on line 11 by deleting the comma following the word “him” and by deleting the word “or” as it appears between the words “States” and “whose” and substituting therefor the word “nor”.

Sec. 7. G.S. 90-41(a)(20) is repealed.

Sec. 8. G.S. 143-34.12 is amended by deleting line 4 which reads as follows:

“Chapter 90, Article 2, entitled ‘Dentistry’.”

Sec. 9. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1981.

H. B. 611

CHAPTER 752

AN ACT TO REVISE THE PENALTIES FOR DESECRATION OF CEMETERIES AND GRAVES, AS RECOMMENDED BY THE ABANDONED CEMETERIES STUDY COMMITTEE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-148 is rewritten to read:

§ 14-148. Defacing or desecrating grave sites.—(a) It is unlawful to willfully:
(1) throw, place or put any refuse, garbage or trash in or on any cemetery;
(2) take away, disturb, vandalize, destroy or change the location of any stone, brick, iron or other material or fence enclosing a cemetery
without authorization of law or consent of the surviving spouse or next of kin of the deceased thereby causing damage of less than one thousand dollars ($1,000); or

(3) take away, disturb, vandalize, destroy, tamper with or deface any tombstone, headstone, monument, grave marker, grave ornamentation, grave artifacts, shrubbery, flowers, plants or other articles within any cemetery erected or placed to designate where a body is interred or to preserve and perpetuate the memory and name of any person, without authorization of law or the consent of the surviving spouse or next of kin, thereby causing damage of less than one thousand dollars ($1,000).

Violation of this section is a misdemeanor punishable by a fine of not more than five hundred dollars ($500.00), imprisonment for not less than 60 days nor more than one year, or both, in the discretion of the court. In passing sentence, the court shall consider the appropriateness of restitution or reparation as a condition of probation under G.S. 15A-1343(b)(6) as an alternative to actual imposition of a fine, jail term, or both.”

Sec. 2. G.S. 14-149 is rewritten to read:

“§ 14-149. Desecrating, plowing over or covering up graves.—It is a Class I felony, without authorization of law or the consent of the surviving spouse or next of kin of the deceased, to knowingly and willfully:

(1) open, disturb, destroy, remove, vandalize or desecrate any casket, human remains or any portion thereof or the repository of any such remains, by any means including plowing under, tearing up, covering over or otherwise obliterating or removing any grave;

(2) take away, vandalize or destroy any stone, brick, iron or other material or fence enclosing a cemetery, causing damage of more than one thousand dollars ($1,000); or

(3) take away, vandalize, destroy or deface any tombstone, headstone, monument, grave marker, grave ornamentation, grave artifacts, shrubbery, flowers, plants or other articles within any cemetery erected or placed to designate the place where any dead body is interred or to preserve and perpetuate the memory and the name of any person, causing damage of more than one thousand dollars ($1,000).”

Sec. 3. G.S. 14-150 and G.S. 14-150.1 are repealed.

Sec. 4. This act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 1st day of July, 1981.

H. B. 895

CHAPTER 753

AN ACT TO SET HIGHER MAXIMUM FEES COLLECTABLE BY THE BOARD OF BARBER EXAMINERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 86A-25 is rewritten to read:

“§ 86A-25. Fees collectable by Board.—The State Board of Barber Examiners shall charge fees not to exceed the following:

Certificate of registration or renewal as a barber $ 20.00
Certificate of registration or renewal as an apprentice barber 20.00
Barbershop permit or renewal 20.00
Examination to become a registered barber 40.00
Examination to become a registered apprentice barber 40.00
Restoration of an expired certificate of a registered apprentice, registered barber or barbershop permit within the first year $10.00 plus renewal fee; after the first year $20.00 plus lapsed fees up to 5 years
Examination to become a barber school instructor 85.00
Student permit 10.00
Issuance of any duplicate copy of a license, certificate or permit 5.00
Barber school permit 50.00
Barber school instructor certificate or renewal 35.00
Inspection of newly established barbershop 60.00
Inspection of newly established barber school 100.00
Issuance of a registered or apprentice certificate by certification 60.00.”

Sec. 2. This act shall become effective October 1, 1981.
In the General Assembly read three times and ratified, this the 1st day of July, 1981.

H. B. 898 CHAPTER 754
AN ACT TO RAISE THE THRESHOLD AMOUNT OF PURCHASES OF SUPPLIES AND EQUIPMENT FOR WHICH FORMAL ADVERTISEMENT FOR BIDS IS REQUIRED, AND TO REPEAL PRIOR LOCAL ACTS.

The General Assembly of North Carolina enacts:

Section 1. The first sentence of G.S. 143-129 is amended by deleting the words “five thousand dollars ($5,000)” and substituting the words “ten thousand dollars ($10,000)”.

Sec. 2. The following local acts in conflict are repealed:
(1) Section 1 of Chapter 224, Session Laws of 1951
(2) Chapter 506, Session Laws of 1951
(3) Chapter 881, Session Laws of 1951
(4) Section 1 of Chapter 729, Session Laws of 1953
(5) Chapter 94, Session Laws of 1955
(6) Chapter 670, Session Laws of 1955
(7) Section 14 of Chapter 1137, Session Laws of 1959
(8) Chapter 805, Session Laws of 1967
(9) Section 18 of Chapter 142, Session Laws of 1969
(10) Chapter 328, Session Laws of 1969
(11) Chapter 1185, Session Laws of 1973 (Second Session 1974)
(12) Section 84(1) of Section 1, Chapter 671, Session Laws of 1975
(13) Section 1 of Chapter 277, Session Laws of 1977
(14) Section 1 of Chapter 262, Session Laws of 1979
(15) Chapter 291, Session Laws of 1979
(16) Chapter 1141, Session Laws of 1979 (Second Session 1980)

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(17) Sections 1 and 2 of Chapter 1167, Session Laws of 1979 (Second Session 1980)
(18) Chapter 1200, Session Laws of 1979 (Second Session 1980)
Sec. 3. This act shall become effective July 1, 1981.
In the General Assembly read three times and ratified, this the 1st day of July, 1981.

H. B. 21  CHAPTER 755
AN ACT TO MAKE SHOOTING INTO AN OCCUPIED BUILDING OR OTHER OCCUPIED ENCLOSURES WITH CERTAIN BARRELED WEAPONS A FELONY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-34.1 is rewritten to read as follows:
"§ 14-34.1. Discharging certain barreled weapons or a firearm into occupied property.—Any person who willfully or wantonly discharges or attempts to discharge:
(1) any barreled weapon capable of discharging shot, bullets, pellets, or other missiles at a muzzle velocity of at least 600 feet per second; or
(2) a firearm
into any building, structure, vehicle, aircraft, watercraft, or other conveyance, device, equipment, erection, or enclosure while it is occupied is guilty of a Class H Felony."

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 1st day of July, 1981.

H. B. 603  CHAPTER 756
AN ACT TO REVISE PORTIONS OF THE FAYETTEVILLE CITY CHARTER.

The General Assembly of North Carolina enacts:

Section 1. Section 5.13 of the Fayetteville City Charter is hereby repealed and a new Section 5.13 is enacted to read as follows:
No officer or employee of the Police Department or Fire Department of the City of Fayetteville shall be fined, suspended or discharged except for cause as provided herein.

(1) Grounds for suspension or discharge. Any member of the Police or Fire Department who violates any rule or regulation of either department as prescribed and promulgated by this Article or who commits any act of misconduct or offense that would be detrimental to the health, safety, welfare or morale of either department or the protection of lives or property of the people within the City of Fayetteville shall be subject to suspension or discharge pursuant to this section.

(2) Authority of the Chief of Police or the Fire Chief. If the Chief of Police or the Chief of the Fire Department determines that grounds for suspension or discharge exist, they shall have the authority, subject to the approval of the Civil Service Commission, to suspend the affected individual up to a period of 30 days without pay, or discharge the individual. In the event that the Chief of
Police or the Chief of the Fire Department determine to take such action, they shall immediately notify in writing the individual affected, and said notice shall contain the following information:

(a) a clear and factual notice of the reasons for the recommended action in sufficient detail to enable the person charged to present evidence relating to them;

(b) notice of the names of those who have made allegations against the accused;

(c) the nature of the action to be taken, i.e., suspension, without pay, (not to exceed 30 days) or termination;

(d) that the individual has a right to a hearing before the Civil Service Commission, that he has 10 days to request the same, and that said request shall be in writing, directed to the Chairman of the Civil Service Commission;

(e) that the recommended action of the respective chief has to be approved by the Civil Service Commission, whether or not the individual requests a hearing;

(f) that in the event the individual does not request a hearing in writing within the time prescribed, that said hearing before the Civil Service Commission shall be waived; and

(g) that said notice of suspension shall be delivered to the individual in person or by certified mail.

(3) Action pending hearing. In the event that an individual requests a hearing before the Civil Service Commission as prescribed in subsection (d) above, the commission shall conduct said hearing no sooner than five, no more than 20 days from the date upon which it receives the written request for said hearing. If the individual shall request a postponement of the hearing beyond the 20-day time period, he shall so state in writing and by doing so shall waive any claim of prejudice to the hearing of his cause as a result of said delay. If an individual has been suspended pending a hearing and the individual requests a postponement of the hearing to a point in time beyond which the suspension would have expired, the commission shall have the authority to continue the suspension without pay until such time as the hearing is held.

(4) Conduct of the hearing. The hearing before the Civil Service Commission shall be fair and impartial, and the individual who has requested the hearing shall be entitled to:

(a) the right to representation by an attorney at his own expense;

(b) the right to cross-examine any witness;

(c) a transcript of the proceedings;

(d) the right to request the Civil Service Commission to subpoena witnesses in his or her behalf;

(e) the right to testify in his own behalf, either sworn or unsworn; any other witness appearing before the hearing regardless of his or her interests shall be sworn;

(f) the right to an open hearing, if requested in writing; otherwise, the hearing shall be closed.

The commission shall have the authority to subpoena witnesses and compel their attendance, and to compel the production of the records necessary for a proper investigation and fair determination at the hearing. Any commission member may ask questions of any witness.
The general rules of evidence shall be followed during the hearing, and all rulings on evidentiary matters shall be made by the Chairman of the Commission, or in his absence, the presiding officer. At the conclusion of all testimony, each side may be permitted to present oral argument. The individual who requested the hearing or his attorney shall speak first. At the conclusion of the arguments, the commission shall meet in closed session to make their decision.

(5) Action of the Commission. Based upon the evidence as presented and upon a majority vote of the commission, the commission shall have the authority to:

(a) approve or disapprove the action of the respective chief;
(b) suspend the individual without pay for an additional period of time not to exceed three months; or
(c) impose a fine against the individual in an amount not to exceed 30 days' salary.

In the event that the commission's action results in reinstatement or disapproval of a suspension, the individual shall be entitled to back pay and all benefits for that period of time from the date of the initial written notice to the individual until the hearing, exclusive of any period of postponement may be waived for good cause shown. The action of the commission with respect to the matters contained in this section shall be final and conclusive.

Sec. 2. Section 6.1 of the Fayetteville City Charter is hereby repealed and a new Section 6.1 is enacted to read as follows:

A commission of the City of Fayetteville to be known as the "Public Works Commission" as heretofore created, established and now existing, is hereby continued and the number of members shall increase, effective July 1, 1981, to four. The terms of office of the current members shall each be expanded for an additional year, with each term expiring four years from the date which the appointment was originally made. A new appointment shall be made in June of 1981, and it shall be for a term of four years. As each appointment expires, the city council shall, at its regular meeting in June of each year, elect a member of said commission for a term of four years to replace the expiring member.

Sec. 3. G.S. 160A-364 is amended by rewriting said paragraph to read as follows:

(1) Before the City of Fayetteville may adopt or amend any ordinance pursuant to Part 3 of this Article, the Cumberland County Joint Planning Board shall hold a public hearing on it. A notice of the public hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the date fixed for the hearing. In computing such period, the day of publication is not to be included, but the day of the hearing shall be included.

(2) Any person aggrieved by the recommendation of the Cumberland County Planning Board shall have the right to appeal the action of the planning board in writing to the Clerk of the City of Fayetteville within 10 days of the action of the planning board. If an appeal is timely filed, then the city council shall hold a public hearing with prior notice being published in accordance with subparagraph (1).
(3) If the planning board's recommendation was to rezone the property, and no appeal is filed pursuant to subparagraph (2), then at its next regular council meeting following the expiration of the time provided for appeal in subparagraph (2) above, the city council shall have the right to adopt the rezoning without further public hearing. A rezoning shall be defined as any change in the zoning classification of property, whether it be in whole, in part, or a combination of new classifications, or an initial zoning of property added to the city's jurisdiction by annexation or other action.

(4) If the action of the planning board was to recommend denial of the petition, and no appeal is taken within the time prescribed pursuant to subparagraph (2), then, the action recommended by the planning board shall be deemed to be the final action of the city council.

Sec. 4. G.S. 160A-516 is amended by adding a new subsection (g) to read:
“(g) The Redevelopment Commission is authorized to issue notes or other evidence of indebtedness to a bank or other private lending source for any purpose for which bonds may be issued and sold under this Article. The Redevelopment Commission shall also have full power and authority to determine the terms of payment, including interest rates, and the security to be issued, if any, by the Redevelopment Commission to secure the notes or other evidences of indebtedness.”

Sec. 5. Section 3 and Section 4 shall apply to the City of Fayetteville only.

Sec. 6. This act shall apply only to Cumberland County, and to all municipalities located in that county.

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1981.

H. B. 438  CHAPTER 757

AN ACT TO AUTHORIZE MEMBERS OF OCCUPATIONAL LICENSING BOARDS TO RECEIVE REIMBURSEMENT FOR TRAVEL AND SUBSISTENCE EXPENSES ON THE SAME BASIS AS STATE BOARDS AND COMMISSIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 93B-5(b) is rewritten as follows:
“Board members shall be reimbursed for all necessary travel expenses in an amount not to exceed that authorized under G.S. 138-6(a) for officers and employees of State departments. Actual expenditures of board members in excess of the maximum amounts set forth in G.S. 138-6(a) for travel and subsistence may be reimbursed if the prior approval of the State Director of Budget is obtained and such approved expenditures are within the established and published uniform standards and criteria of the State Director of Budget authorized under G.S. 138-7 for extraordinary charges for hotels, meals, and convention registration for State officers and employees, whenever such charges are the result of required official business of the board.”

Sec. 2. G.S. 93B-5(c) is repealed.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1981.
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H. B. 944  CHAPTER 758

AN ACT TO INCLUDE CONSIDERATION OF PERSONAL PROPERTY TRANSFERS IN DETERMINING MEDICAID AND SPECIAL ASSISTANCE ELIGIBILITY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 108A-60, as recodified in Chapter 275 of the 1981 Session Laws, is rewritten to read:

"§ 108A-60. Transfer of property for purposes of qualifying for State-county special assistance for adults; periods of ineligibility.—(a) Any person, otherwise eligible, who, either while receiving State-county special assistance or within one year prior to the date of applying for assistance, unless some other time period is mandated by controlling federal law, sells, gives, assigns or transfers countable real or personal property or an interest therein, either by himself or through his legal representative, for the purpose of retaining or establishing eligibility for State-county special assistance, shall be ineligible to receive assistance thereafter as set forth in subsection (c) of this section.

Countable real and personal property shall be real property, excluding a homesite, intangible personal property, nonessential motor and recreational vehicles, nonincome producing business equipment, boats and motors. The provisions of this act shall not apply to the sale, gift, assignment or transfer of real or personal property if and to the extent that the person applying for State-county special assistance would have been eligible for such assistance notwithstanding ownership of such property or an interest therein.

(b) Any sale, gift, assignment or transfer of real or personal property or an interest therein, as provided in subsection (a) of this section, shall be presumed to have been made for the purpose of retaining or establishing eligibility for State-county special assistance unless the person, or his legal representative, who sells, gives, assigns or transfers the property or interest, receives valuable consideration at least equal to the fair market value, less encumbrances, of the property or interest.

(c) Any person who, by himself or through his legal representative, sells, gives, assigns or transfers real or personal property or an interest therein for the purpose of retaining or establishing eligibility for State-county special assistance, as provided in subsection (a) of this section, shall be ineligible to receive assistance thereafter until an amount equal to the uncompensated value of the property or interest has been expended by or on behalf of such person for maintenance and support, including medical expenses, paid or incurred, or shall be ineligible in accordance with the following schedule, whichever is sooner:

(1) For uncompensated value of at least one thousand dollars ($1,000) but not more than six thousand dollars ($6,000), a one-year period of ineligibility from date of sale, gift, assignment or transfer;

(2) For uncompensated value of more than six thousand dollars ($6,000) but not more than twelve thousand dollars ($12,000), a two-year period of ineligibility from date of sale, gift, assignment or transfer;

(3) For uncompensated value of more than twelve thousand dollars ($12,000), a two-year period of ineligibility from date of sale, gift, assignment or transfer, plus one additional month of ineligibility for each five hundred dollar ($500.00) increment or portion thereof by
which the uncompensated value exceeds twelve thousand dollars ($12,000), but in no event to exceed three years.

(d) The sale, gift, assignment or transfer for a consideration less than fair market value, less encumbrances, or any tangible personal property which was acquired with the proceeds of sale, assignment or transfer of real or intangible personal property described in subsection (a) of this section or in exchange for such real or intangible personal property shall be presumed to have been for the purpose of evading the provisions of this section if the acquisition and sale, gift, assignment or transfer of the tangible personal property is by or on behalf of a person receiving State-county special assistance or within one year of making application for such assistance and the consequences of the sale, gift, assignment or transfer of such tangible personal property shall be determined under the provisions of subsections (c), (f) and (g) of this section.

(e) The presumption created by subsections (b) and (d) may be overcome if the person receiving or applying for State-county special assistance, or his legal representative, establishes by the greater weight of the evidence that the sale, gift, assignment or transfer was exclusively for some purpose other than retaining or establishing eligibility for such assistance.

(f) For the purpose of establishing uncompensated value under subsection (c), the value of property or an interest therein shall be the fair market value of the property or interest at the time of the sale, gift, assignment or transfer, less the amount of compensation received for the property or interest, if any. There shall be a rebuttable presumption that the fair market value of real property is the most recent property tax value of the property, as ascertained according to Subchapter II of Chapter 105 of the General Statutes. Fair market value for purpose of this subsection shall be such value, determined as above set out, less any legally enforceable encumbrances to which the property is subject.

(g) In the event that there is more than one sale, gift, assignment or transfer of property or an interest therein by a person receiving State-county special assistance or within one year of the date of an application for such assistance, unless some other time period is mandated by controlling federal law, the uncompensated value for the purposes of subsection (c) shall be the aggregate uncompensated value of all sales, gifts, assignments and transfers. The date which is the midpoint between the date of the first and the last sale, gift, assignment or transfer shall be the date from which the period of ineligibility shall be determined under subsection (c)."

Sec. 2. G.S. 108A-80, as found in Chapter 275 of the 1981 Session Laws, is rewritten to read:

"§108A-80. Transfer of property for purposes of qualifying for medical assistance; periods of ineligibility.—(a) Any person, otherwise eligible, who, either while receiving medical assistance benefits or within one year prior to the date of applying for medical assistance benefits, unless some other time period is mandated by controlling federal law, sells, gives, assigns or transfers countable real or personal property or an interest therein, either by himself or through his legal representative, for the purpose of retaining or establishing eligibility for medical assistance benefits, shall be ineligible to receive medical assistance benefits thereafter as set forth in subsection (c) of this section.

Countable real and personal property includes real property, excluding a homesite, intangible personal property, nonessential motor and recreational vehicles, nonincome producing business equipment, boats and motors. The
provisions of this act shall not apply to the sale, gift, assignment or transfer of real or personal property if and to the extent that the person applying for medical assistance would have been eligible for such assistance notwithstanding ownership of such property or an interest therein.

(b) Any sale, gift, assignment or transfer of real or personal property or an interest therein, as provided in subsection (a) of this section, shall be presumed to have been made for the purpose of retaining or establishing eligibility for medical assistance benefits unless the person, or his legal representative, who sells, gives, assigns or transfers the property or interest, receives valuable consideration at least equal to the fair market value, less encumbrances, of the property or interest.

(c) Any person who, by himself or through his legal representative, sells, gives, assigns or transfers real or personal property or an interest therein for the purpose of retaining or establishing eligibility for medical assistance benefits, as provided in subsection (a) of this section, shall be ineligible to receive these benefits thereafter until an amount equal to the uncompensated value of the property or interest has been expended by or on behalf of the person for his maintenance and support, including medical expenses, paid or incurred, or shall be ineligible in accordance with the following schedule, whichever is sooner:

1. For uncompensated value of at least one thousand dollars ($1,000) but not more than six thousand dollars ($6,000), a one-year period of ineligibility from date of sale, gift, assignment or transfer;

2. For uncompensated value of more than six thousand dollars ($6,000) but not more than twelve thousand dollars ($12,000), a two-year period of ineligibility from date of sale, gift, assignment or transfer;

3. For uncompensated value of more than twelve thousand dollars ($12,000), a two-year period of ineligibility from date of sale, gift, assignment or transfer, plus one additional month of ineligibility for each five hundred dollar ($500.00) increment or portion thereof by which the uncompensated value exceeds twelve thousand dollars ($12,000), but in no event to exceed three years.

(d) The sale, gift, assignment or transfer for a consideration less than fair market value, less encumbrances, of any tangible personal property which was acquired with the proceeds of sale, assignment or transfer of real or intangible personal property described in subsection (a) of this section or in exchange for such real or intangible personal property shall be presumed to have been for the purpose of evading the provisions of this section if the acquisition and sale, gift, assignment or transfer of the tangible personal property is by or on behalf of a person receiving medical assistance or within one year of making application for such assistance and the consequences of the sale, gift, assignment or transfer of such tangible personal property shall be determined under the provisions of subsections (c), (f) and (g) of this section.

(e) The presumptions created by subsections (b) and (d) may be overcome if the person receiving or applying for medical assistance, or his legal representative, establishes by the greater weight of the evidence that the sale, gift, assignment or transfer was exclusively for some purpose other than retaining or establishing eligibility for medical assistance benefits.

(f) For the purpose of establishing uncompensated value under subsection (c), the value of property or an interest therein shall be the fair market value of the property or interest at the time of the sale, gift, assignment or transfer, less the
amount of compensation, if any, received for the property or interest. There shall be a rebuttable presumption that the fair market value of real property is the most recent property tax value of the property, as ascertained according to Subchapter II of Chapter 105 of the General Statutes. Fair market value for purpose of this subsection shall be such value, determined as above set out, less any legally enforceable encumbrances to which the property is subject.

(g) In the event that there is more than one sale, gift, assignment or transfer of property or an interest therein by a person receiving medical assistance or within one year of the date of an application for medical assistance, unless some other time period is mandated by controlling federal law, the uncompensated value, for the purposes of subsection (c), shall be the aggregate uncompensated value of all sales, gifts, assignments and transfers. The date which is the midpoint between the date of the first and last sale, gift, assignment or transfer shall be the date from which the period of ineligibility shall be determined under subsection (c).

(h) This section shall not apply to applicants for or recipients of aid to families with dependent children or to persons entitled to medical assistance by virtue of their eligibility for aid to families with dependent children.”

Sec. 3. If any provision of this act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect the provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 4. This act shall become effective October 1, 1981, and shall apply to applications pending on that date except that this act shall not apply to any transfer of personal property made prior to the date of ratification of this act.

In the General Assembly read three times and ratified, this the 1st day of July, 1981.

H. B. 1156

CHAPTER 759

AN ACT TO REGULATE CREDIT INSURANCE POLICIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-344(a)(1) is rewritten to read:

“(a) (1) Except as provided in G.S. 53-189(a) for transactions of 60 months or less in duration, the initial amount of credit life insurance shall not exceed the total amount repayable under the contract of indebtedness and, where an indebtedness is repayable in substantially equal installments, the amount of insurance shall at no time exceed the greater of the actual or scheduled amount of indebtedness. For transactions of more than 60 months in duration, the initial amount of credit life insurance shall not exceed the total amount repayable under the contract of indebtedness less unearned finance charges and, where an indebtedness is repayable in substantially equal installments, the amount of insurance shall at no time exceed the greater of the actual or scheduled amount of indebtedness less unearned finance charges; provided, however, that additional coverage not exceeding four months of accrued interest on successive net balances may be provided to cover any delinquency in payments.”
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Sec. 2. G.S. 58-350(c) is amended by adding at the end thereof the following:

"Provided, however, that unless the insured writes the name of his employer on the application and signs a statement that he is employed, there shall be no denial of claims grounded on the insured's failure to be employed on the effective date of the insurance."

Sec. 3. G.S. 58-346(c)(2) is amended by adding at the end thereof the following:

"Provided, however, that unless the insured writes his own age on the form and signs a statement that he has done so, there shall be no denial of claims grounded on the debtor's age. Provided further, if the indebtedness is paid by renewal or refinancing prior to the scheduled maturity date, the effective date of the coverage with respect to any policy provision shall be deemed to be the first date on which the debtor became insured under the policy covering the original prior indebtedness that was renewed or refinanced, at least to the extent of the amount and term of the coverage outstanding at the time of renewal and refinancing of the debt."

Sec. 4. G.S. 58-350(a) is amended by adding at the end thereof the following:

"Provided, if the indebtedness is paid by renewal or refinancing prior to the scheduled maturity date, the effective date of the coverage with respect to any policy provision shall be deemed to be the first date on which the debtor became insured under the policy covering the original prior indebtedness that was renewed or refinanced, at least to the extent of the amount and term of the coverage outstanding at the time of renewal and refinancing of the debt."

Sec. 5. G.S. 58-350(a) is amended on line 14 by deleting the words "age restrictions similar to" and substituting therefor the words, "the same age restrictions as".

Sec. 6. G.S. 58-350(b) is rewritten to read:

"(b) A policy of credit accident and health insurance shall include a definition of 'disability' providing that during the first 12 months of disability the insured shall be unable to perform the duties of his occupation at the time the disability occurred (or his previous occupation if the person is unemployed or retired at the time the disability occurs), and thereafter the duties of any occupation for which the insured is reasonably fitted by education, training, or experience."

Sec. 7. Article 32 of General Statutes Chapter 58 is amended by adding a new section to read:

"§ 58-359. Credit property insurance.—(a) As used in this Article, the term 'single interest credit property' insurance means insurance of the personal household property of the debtor against loss, with the creditor as sole beneficiary; and the term 'dual credit property' insurance means insurance of personal household property of the debtor, with the creditor as primary beneficiary and the debtor as beneficiary of proceeds not paid to the creditor. For the purpose of this Article, 'personal household property' means household furniture, furnishings and appliances designed for household use and not used by the debtor in a business trade or profession.

(b) Premium rates charged shall not exceed one dollar ($1.00) per year per one hundred dollars ($100.00) of insured value for single interest credit property insurance and shall not exceed one dollar and fifty cents ($1.50) per year per one hundred dollars ($100.00) of insured value for dual interest credit property insurance."

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insurance. The insured value shall not exceed the lesser of the value of the property or the amount of the initial indebtedness.

The Department shall collect data on credit property insurance written in North Carolina, including but not limited to: the amount of coverage written, direct premiums, earned premiums, dividends and retrospective rate credits paid, direct losses paid, direct losses incurred, commissions paid, loss ratios and policy provisions."

Sec. 8. G.S. 58-351(b) and (c) are rewritten to read:

"(b) The refund of premiums for decreasing term credit life insurance in transactions of 60 months duration or less and the refund of premiums for single interest credit property insurance shall be equal to the amount computed by the sum of digits formula commonly known as the 'Rule of 78'. The refund of premiums for decreasing term credit life insurance in transactions of more than 60 months duration shall be equal to the premium that would be charged for the remaining term and amount of coverage in the policy. The refund of premiums for level term credit life insurance and dual interest credit property insurance shall be equal to the pro rata unearned gross premiums.

(c) The refund of premiums in the case of credit accident and health insurance shall be equal to one-half (1/2) the amount computed by the sum-of-digits formula commonly known as the 'Rule of 78' plus one-half (1/2) the amount of the pro rata unearned gross premium.

In lieu thereof the refund may be computed by the 'Pure Premium' method. The refund is computed from the schedule of credit accident and health premiums and is equal to the premium from that schedule which would be charged for such insurance in the amount of the total remaining benefits for the remaining term of the indebtedness outstanding on the date of termination."

Sec. 9. G.S. 350(d) is amended by deleting the numbers under the column headed "No. of Months in which Indebtedness is Repayable" and substituting therefor "12" for "1-12", "24" for "13-24", "36" for "25-36", "48" for "37-48", "60" for "49-60", "72" for "61-72", "84" for "73-84", "96" for "85-96", "108" for "97-108", and "120" for "109-120", and is further amended by adding at the end thereof the following: "For terms other than the above, premiums shall be prorated."

Sec. 10. G.S. 53-189(a) is amended by adding the following language after the first sentence thereof:

"For single or joint life insurance written prior to July 1, 1982, pursuant to G.S. 53-189, such insurance may be written either level term or decreasing term for an initial amount not in excess of the total indebtedness and the refund of premiums for level term insurance shall be equal to the pro rata unearned gross premium if refunded thereafter. The premium rate for level term credit life insurance written pursuant to this section shall not exceed one dollar and thirty-five cents ($1.35) per hundred dollars ($100.00) per year. For single or joint life insurance written on or after July 1, 1982, pursuant to G.S. 53-189, the amount of insurance shall at no time exceed the actual or scheduled indebtedness and the refund of premiums for level term insurance shall be equal to the pro rata unearned gross premiums."

Sec. 11. This act shall become effective October 1, 1981. All credit life and credit accident and health insurance policies delivered or issued for delivery on or after the effective date of this act shall conform to the provisions of this act. With regard to existing group credit insurance policies, the rates and
forms shall be amended to conform to the requirements of this act, or be
terminated, not later than the anniversary of the date of issue of the contract
next following the effective date of this act.

In the General Assembly read three times and ratified, this the 1st day of
July, 1981.

S. B. 620

CHAPTER 760

AN ACT TO AMEND G.S. 58-79 RELATING TO DOMESTIC STOCK AND
MUTUAL LIFE INSURANCE COMPANY INVESTMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-79(a)(5) is amended by deleting the last sentence and
substituting:

"Equipment trust obligations or certificates or other secured instruments
evidencing an interest in (i) transportation equipment; and (ii) industrial and
utility equipment and related buildings and other construction whether or not
affixed to land, and related leases, easements, uses, rights-of-way and any other
appurtenances thereto; all of which items listed in parts (i) and (ii) of this
sentence are and will be wholly or in part within the United States of America
and a right to receive determined portions of rental, purchases or other fixed
obligatory payments for the use or purchase of such items."

Sec. 2. G.S. 58-79(a)(6) is amended by deleting the words and figure "ten
percent (10%)" and substituting "twenty percent (20%)".

Sec. 3. G.S. 58-79(a)(11)e.1.III is amended by deleting the words and
figure "six percent (6%)" and substituting "ten percent (10%)".

Sec. 4. G.S. 58-79(a)(11)e.4. is amended by deleting the words and figure
"ten percent (10%)" and substituting "fifteen percent (15%)".

Sec. 5. The first sentence of G.S. 58-79(a)(11)f. is amended by inserting the
following immediately before the period:

"; provided, however, notwithstanding any express or implied prohibitions,
and in addition to other investments permitted by this section, any
incorporated company may invest up to six percent (6%) of its assets in real
estate for the production of income".

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of
July, 1981.

S. B. 623

CHAPTER 761

AN ACT TO AMEND CHAPTER 58, ARTICLE 22, OF THE GENERAL
STATUTES RELATING TO NONFORFEITURE BENEFITS OF LIFE
INSURANCE POLICIES AND RESERVE VALUATION STANDARDS
FOR LIFE INSURANCE POLICIES AND ANNUITY CONTRACTS.

The General Assembly of North Carolina enacts:

Section 1. Subsection (c) of G.S. 58-201.1 is hereby amended by
rewriting the same to read as follows:

"(c) (1) Except as otherwise provided in subdivisions (3) and (4) of this
subsection, the minimum standard for the valuation of all such policies
and contracts issued prior to the operative date of G.S. 58-201.2 shall be
that provided by the laws in effect immediately prior to such date, except
that the minimum standard for the valuation of annuities and pure endowments purchased under group annuity and pure endowment contracts issued prior to such effective date shall be that provided by the laws in effect immediately prior to such date but replacing the interest rates specified in such laws by an interest rate of five percent (5%) per annum.

(2) Except as otherwise provided in subdivisions (3) and (4) of this subsection, the minimum standards for the valuation of all such policies and contracts issued on or after the operative date of G.S. 58-201.2 shall be the Commissioner's reserve valuation methods defined in subsections (d), (d-1) and (g), five percent (5%) interest for group annuity and pure endowment contracts and three and one-half percent (3-1/2%) interest for all other policies and contracts, or, in the case of policies and contracts other than annuity and pure endowment contracts, issued on or after July 1, 1975, four percent (4%) interest for such policies issued prior to April 19, 1979, and four and one-half percent (4-1/2%) interest for such policies issued on or after April 19, 1979, and the following tables:

a. For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies - the Commissioner's 1941 Standard Ordinary Mortality Table for such policies issued prior to the operative date of subdivision (e)(2) of G.S. 58-201.2, the Commissioner's 1958 Standard Ordinary Mortality Table for such policies issued on or after the operative date of subdivision (e)(2) of G.S. 58-201.2 prior to the operative date of subdivision (e)(4) of G.S. 58-201.2, provided that for any category of such policies issued on female risks, all modified net premiums and present values referred to in this section may be calculated according to an age not more than six years younger than the actual age of the insured; and, for such policies issued on or after the operative date of subdivision (e)(4) of G.S. 58-201.2, (i) the Commissioner's 1980 Standard Ordinary Mortality Table, or (ii) at the election of the company for any one or more specified plans of life insurance, the Commissioner's 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors, or (iii) any ordinary mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the Commissioner for use in determining the minimum standard of valuation for such policies;

b. For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies - the 1941 Standard Industrial Mortality Table for such policies issued prior to the operative date of subdivision (e)(3) of G.S. 58-201.2 and for such policies issued on or after such operative date the Commissioner's 1961 Standard Industrial Mortality Table or any industrial mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the Commissioner for use in determining the minimum standard of valuation for such policies;
c. For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies - the 1937 Standard Annuity Mortality Table or, at the option of the company, the Annuity Mortality Table for 1949, Ultimate, or any modification of either of these tables approved by the Commissioner;

d. For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies - the Group Annuity Mortality Table for 1951, any modification of such table approved by the Commissioner, or, at the option of the company, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts;

e. For total and permanent disability benefits in or supplementary to ordinary policies or contracts - for policies or contracts issued on or after January 1, 1966, the tables of Period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 Disability Study of the Society of Actuaries, with due regard to the type of benefit or any tables of disablement rates and termination rates, adopted after 1980 by the National Association of Insurance Commissioners, that are approved by regulation promulgated by the Commissioner for use in determining the minimum standard of valuation for such policies; for policies or contracts issued on or after January 1, 1961, and prior to January 1, 1966, either such tables or, at the option of the company, the Class (3) Disability Table (1926); and for policies issued prior to January 1, 1961, the Class (3) Disability Table (1926). Any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies;

f. For accidental death benefits in or supplementary to policies - for policies issued on or after January 1, 1966, the 1959 Accidental Death Benefits Table or any accidental death benefits table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the Commissioner for use in determining the minimum standard of valuation for such policies; for policies issued on or after January 1, 1961, and prior to January 1, 1966, either such table or, at the option of the company, the Inter-Company Double Indemnity Mortality Table; and for policies issued prior to January 1, 1961, the Inter-Company Double Indemnity Mortality Table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies;

g. For group life insurance, life insurance issued on the substandard basis and other special benefits - such tables as may be approved by the Commissioner.

(3) Except as provided in subdivision (4) of this subsection, the minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after the operative date of this subdivision (3), as defined herein, and for all annuities and pure endowments purchased on or after such operative date under group annuity and pure endowment contracts, shall be the Commissioner's reserve valuation methods defined in subsections (d) and (d-1) and the following tables and interest rates:
a. For individual annuity and pure endowment contracts issued prior to April 19, 1979, excluding any disability and accidental death benefits in such contracts - the 1971 Individual Annuity Mortality Table, or any modification of this table approved by the Commissioner, and six percent (6%) interest for single premium immediate annuity contracts, and four percent (4%) interest for all other individual annuity and pure endowment contracts;

b. For individual single premium immediate annuity contracts issued on or after April 19, 1979, excluding any disability and accidental death benefits in such contracts - the 1971 Individual Annuity Mortality Table or any individual annuity mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the Commissioner for use in determining the minimum standard of valuation for such contracts, or any modification of these tables approved by the Commissioner, and seven and one-half percent (7-1/2%) interest;

c. For individual annuity and pure endowment contracts issued on or after April 19, 1979, other than single premium immediate annuity contracts, excluding any disability and accidental death benefits in such contracts - the 1971 Individual Annuity Mortality Table or any individual annuity mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the Commissioner for use in determining the minimum standard of valuation for such contracts, or any modification of these tables approved by the Commissioner, and five and one-half percent (5-1/2%) interest for single premium deferred annuity and pure endowment contracts and four and one-half percent (4-1/2%) interest for all other such individual annuity and pure endowment contracts;

d. For all annuities and pure endowments purchased prior to April 19, 1979, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts - the 1971 Group Annuity Mortality Table, or any modification of this table approved by the Commissioner, and six percent (6%) interest;

e. For all annuities and pure endowments purchased on or after April 19, 1979, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts - the 1971 Group Annuity Mortality Table or any group annuity mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the Commissioner for use in determining the minimum standard of valuation for such annuities and pure endowments, or any modification of these tables approved by the Commissioner, and seven and one-half percent (7-1/2%) interest.

After July 1, 1975, any company may file with the Commissioner a written notice of its election to comply with the provisions of this subdivision (3) after a specified date before January 1, 1979, which shall be the operative date of this subdivision for such company, provided, a company may elect a different
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operative date for individual annuity and pure endowment contracts from that
elected for group annuity and pure endowment contracts. If a company makes
no such election, the operative date of this subdivision for such company shall
be January 1, 1979.

(4) a. Applicability of this subdivision. The interest rates used in determining
the minimum standard for the valuation of:

(1) all life insurance policies issued in a particular calendar year, on or
after the operative date of subdivision (e)(4) of G.S. 58-201.2,
(2) all individual annuity and pure endowment contracts issued in a
particular calendar year on or after January 1, 1982,
(3) all annuities and pure endowments purchased in a particular
calendar year on or after January 1, 1982, under group annuity and
pure endowment contracts, and
(4) the net increase, if any, in a particular calendar year after January 1,
1982, in amounts held under guaranteed interest contracts
shall be the calendar year statutory valuation interest rates as defined in this
subdivision.

b. Calendar Year Statutory Valuation Interest Rates.

I. The calendar year statutory valuation interest rates, I., shall be
determined as follows and the results rounded to the nearer one-
quarter of one percent (1/4 of 1%):

I. For life insurance,

\[ I = 0.03 + W(R - 0.03) + W(R - 0.09); \]

II. For single premium immediate annuities and for annuity benefits
involving life contingencies arising from other annuities with cash
settlement options and from guaranteed interest contracts with cash
settlement options,

\[ I = 0.03 + W(R - 0.03) \]

where R1 is the lesser of R and .09,

R2 is the greater of R and .09,

R is the reference interest rate defined in this subdivision, and W is
the weighting factor defined in this subdivision.

III. For other annuities with cash settlement options and guaranteed
interest contracts with cash settlement options, valued on an issue
year basis, except as stated in II. above, the formula for life insurance
stated in I. above shall apply to annuities and guaranteed interest
contracts with guarantee durations in excess of 10 years and the
formula for single premium immediate annuities stated in II. above
shall apply to annuities and guaranteed interest contracts with
guarantee duration of 10 years or less.

IV. For other annuities with no cash settlement options and for
 guaranteed interest contracts with no cash settlement options, the
formula for single premium immediate annuities stated in II. above
shall apply,

V. For other annuities with cash settlement options and guaranteed
interest contracts with cash settlement options, valued on a change in
fund basis, the formula for single premium immediate annuities
stated in II. above shall apply.

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2. However, if the calendar year statutory valuation interest rate for any
life insurance policies issued in any calendar year determined without
reference to this sentence differs from the corresponding actual rate for
similar policies issued in the immediately preceding calendar year by
less than one-half of one percent (1/2 of 1%), the calendar year
statutory valuation interest rate for such life insurance policies shall be
equal to the corresponding actual rate for the immediately preceding
calendar year. For purposes of applying the immediately preceding
sentence, the calendar year statutory valuation interest rate for life
insurance policies issued in a calendar year shall be determined for 1980
(using the reference interest rate defined for 1979) and shall be
determined for each subsequent calendar year regardless of when
subdivision (e)(4) of G.S. 58-201.2 becomes operative.

c. Weighting Factors.
   1. The weighting factors referred to in the formulas stated above are given
   in the following tables:

   I. Weighting Factors for Life Insurance:

<table>
<thead>
<tr>
<th>Guarantee Duration (Years)</th>
<th>Weighting Factors</th>
</tr>
</thead>
<tbody>
<tr>
<td>10 or less</td>
<td>.50</td>
</tr>
<tr>
<td>More than 10, but not more than 20</td>
<td>.45</td>
</tr>
<tr>
<td>More than 20</td>
<td>.35</td>
</tr>
</tbody>
</table>

   For life insurance, the guarantee duration is the maximum number of
years the life insurance can remain in force on a basis guaranteed in the
policy or under options to convert to plans of life insurance with
premium rates or nonforfeiture values or both which are guaranteed in the
original policy:

   II. Weighting factor for single premium immediate annuities and for
       annuity benefits involving life contingencies arising from other
       annuities with cash settlement options and guaranteed interest
       contracts with cash settlement options:

       .80

   III. Weighting factors for other annuities and for guaranteed interest
       contracts, except as stated in II. above, shall be as specified in tables
       (i), (ii), and (iii) below, according to the rules and definitions in (iv), (v)
       and (vi) below:

       (i) For annuities and guaranteed interest contracts valued on an issue
           year basis:

           | Guarantee Duration (Years) | Weighting Factor For Plan Type |
           |---------------------------|-------------------------------|
           | 5 or less:                | A    | B    | C    |
           | More than 5, but not more than 10: | .80  | .60  | .50  |
           | More than 10, but not more than 20: | .75  | .60  | .50  |
           | More than 20:             | .65  | .50  | .45  |

           (ii) For annuities and Plan Type


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guaranteed interest contracts valued on a change in fund basis, the factors shown in (i) above increased by:

(iii) For annuities and guaranteed interest contracts valued on an issue year basis (other than those with no cash settlement options) which do not guarantee interest on considerations received more than one year after issue or purchase and for annuities and guaranteed interest contracts valued on a change in fund basis which do not guarantee interest rates on considerations received more than 12 months beyond the valuation date, the factors shown in (i) or derived in (ii) increased by:

(iv) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the guarantee duration is the number of years for which the contract guarantees interest rates in excess of the calendar year statutory valuation interest rate for life insurance policies with guarantee duration in excess of 20 years. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the guarantee duration is the number of years from the date of issue or date of purchase to the date annuity benefits are scheduled to commence.

(v) Plan type as used in the above tables is defined as follows:

Plan Type A: At any time policyholder may withdraw funds only (1) with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, or (2) without such adjustment but in installments over five years or more, or (3) as an immediate life annuity, or (4) no withdrawal permitted.

Plan Type B: Before expiration of the interest rate guarantee, policyholder may withdraw funds only (1) with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the
insurance company, or (2) without such adjustment but in installments over five years or more, or (3) no withdrawal permitted. At the end of interest rate guarantee, funds may be withdrawn without such adjustment in a single sum or installments over less than five years.

Plan Type C: Policyholder may withdraw funds before expiration of interest rate guarantee in a single sum or installments over less than five years either (1) without adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, or (2) subject only to a fixed surrender charge stipulated in the contract as a percentage of the fund.

(vi) A company may elect to value guaranteed interest contracts with cash settlement options and annuities with cash settlement options on either an issue year basis or on a change in fund basis. Guaranteed interest contracts with no cash settlement options and other annuities with no cash settlement options must be valued on an issue year basis. As used in this section, an issue year basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard for the entire duration of the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of issue or year of purchase of the annuity or guaranteed interest contract, and the change in fund basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard applicable to each change in the fund held under the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of the change in the fund.

d. Reference Interest Rate.

1. The Reference Interest Rate referred to in paragraph b. of this subdivision shall be defined as follows:

I. For all life insurance, the lesser of the average over a period of 36 months and the average over a period of 12 months, ending on June 30 of the calendar year next preceding the year of issue, of Moody’s Corporate Bond Yield Average - Monthly Average Corporates, as published by Moody’s Investors Service, Inc.

II. For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the average over a period of 12 months, ending on June 30 of the calendar year of issue or year of purchase, of Moody’s Corporate Bond Yield Average - Monthly Average Corporates, as published by Moody’s Investors Service, Inc.

III. For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in II. above, with guarantee duration in excess of 10 years, the lesser of the average over a period of 36 months and the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of Moody’s Corporate Bond Yield Average - Monthly Average Corporates, as published by Moody’s Investors Service, Inc.

IV. For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of
issue basis, except as stated in II, above, with guarantee duration of 10 years or less, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of Moody's Corporate Bond Yield Average - Monthly Average Corporates, as published by Moody's Investors Service, Inc.

V. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of Moody's Corporate Bond Yield Average - Monthly Average Corporates, as published by Moody's Investors Service, Inc.

VI. For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, except as stated in II, above, the average over a period of 12 months, ending on June 30 of the calendar year of the change in the fund, of Moody's Corporate Bond Yield Average - Monthly Average Corporates, as published by Moody's Investors Service, Inc.


1. In the event that Moody's Corporate Bond Yield Average - Monthly Average Corporates is no longer published by Moody's Investors Service, Inc., or in the event that the National Association of Insurance Commissioners determines that Moody's Corporate Bond Yield Average - Monthly Average Corporates as published by Moody's Investors Service, Inc., is no longer appropriate for the determination of the reference interest rate, then an alternative method for determination of the reference interest rate, which is adopted by the National Association of Insurance Commissioners and approved by regulation promulgated by the Commissioner, may be substituted."

Sec. 2. Subsection (d) of G.S. 58-201.1 is hereby amended by rewriting the same to read as follows:

"(d) Except as otherwise provided in subsections (d-1) and (g), reserves according to the Commissioner's reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums, shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such policies, over the then present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the policy and the excess of (1) and (2), as follows:

(1) A net level annual premium equal to the present value, at the date of issue, of such benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of such policy on which a premium falls due; provided, however, that such net level annual premium shall not exceed the net level annual premium on the nineteen year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of such policy.
(2) A net one year term premium for such benefits provided for in the first policy year.

Provided that for any life insurance policy issued on or after January 1, 1985, for which the contract premium in the first policy year exceeds that of the second year and for which no comparable additional benefits are provided in the first year for such excess and which provides an endowment benefit or a cash surrender value of a combination thereof in an amount greater than such excess premium, the reserve according to the Commissioner's reserve valuation method as of any policy anniversary occurring on or before the assumed ending date defined herein as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than such excess premium shall, except as otherwise provided in subsection (g), be the greater of the reserve as of such policy anniversary calculated as described in the preceding paragraph and the reserve as of such policy anniversary calculated as described in that paragraph, but with (i) the value defined in subparagraph (2) of that paragraph being reduced by fifteen percent (15%) of the amount of such excess first year premium, (ii) all present values of benefits and premiums being determined without reference to premiums or benefits provided for by the policy after the assumed ending date, (iii) the policy being assumed to mature on such date as an endowment, and (iv) the cash surrender value provided on such date being considered as an endowment benefit. In making the above comparison the mortality and interest bases stated in subdivisions (2) and (4) of subsection (c) shall be used.

Reserves according to the Commissioner's reserve valuation method for: (i) life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums; (ii) group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as now or hereafter amended; (iii) disability and accidental death benefits in all policies and contracts; and (iv) all other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts, shall be calculated by a method consistent with the principles of this subsection except that any extra premiums charged because of impairments or special hazards shall be disregarded in the determination of modified net premiums."

Sec. 3. Subsection (e) of G.S. 58-201.1 is hereby amended by rewriting the same to read as follows:

"(e) In no event shall a company's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, issued on or after the effective date of G.S. 58-201.2, be less than the aggregate reserves calculated in accordance with the methods set forth in subsections (d), (d-1), (g) and (h) and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies."

Sec. 4. Subsection (g) of G.S. 58-201.1 is hereby amended by rewriting the same to read as follows:

"(g) If in any contract year the gross premium charged by any life insurance company on any policy or contract is less than the valuation net premium for
the policy or contract calculated by the method used in calculating the reserve thereon but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for such policy or contract shall be the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for such policy or contract, or the reserve calculated by the method actually used for such policy or contract but using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium. The minimum valuation standards of mortality and rate of interest referred to in this subsection are those standards stated in subdivisions (1), (2) and (4) of subsection (c).

Provided that for any life insurance policy issued on or after January 1, 1985, for which the gross premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the foregoing provisions of this subsection (g) shall be applied as if the method actually used in calculating the reserve for such policy were the method described in subsection (d), ignoring the second paragraph of subsection (d). The minimum reserve at each policy anniversary of such a policy shall be the greater of the minimum reserve calculated in accordance with subsection (d), including the second paragraph of that subsection, and the minimum reserve calculated in accordance with this subsection (g).”

Sec. 5. Section 58-201.1 is hereby amended by adding a new subsection (h) to read as follows:

“(h) In the case of any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurance company based on then estimates of future experience, or in the case of any plan of life insurance or annuity which is of such a nature that the minimum reserves cannot be determined by the methods described in subsections (d), (d-1), and (g), the reserves which are held under any such plan must:

(a) be appropriate in relation to the benefits and the pattern of premiums for that plan, and
(b) be computed by a method which is consistent with the principles of this Standard Valuation Law, as determined by regulations promulgated by the Commissioner.”

Sec. 6. Subsection (b) of G.S. 58-201.2 is hereby amended by rewriting the same to read as follows:

“(b) In the case of policies issued on or after the operative date of this section, as defined in subsection (j), no policy of life insurance, except as stated in subsection (i), shall be delivered or issued for delivery in this State unless it shall contain in substance the following provisions, or corresponding provisions which in the opinion of the Commissioner are at least as favorable to the defaulting or surrendering policyholder as are the minimum requirements hereinafter specified and are essentially in compliance with subsection (h) of this section:

(1) That, in the event of default in any premium payment after premiums have been paid for at least one full year in the case of ordinary insurance

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or three full years in the case of industrial insurance, the company will grant, upon proper request not later than 60 days after the due date of the premium in default, a paid-up nonforfeiture benefit on a plan stipulated in the policy, effective as of such due date, of such amount as may be hereinafter specified. In lieu of such stipulated paid-up nonforfeiture benefit, the company may substitute, upon proper request not later than 60 days after the due date of the premium in default, an actuarially equivalent alternative paid-up nonforfeiture benefit which provides a greater amount or longer period of death benefits or, if applicable, a greater amount or earlier payment of endowment benefits.

(2) That, upon surrender of the policy within 60 days after the due date of any premium payment in default after premiums have been paid for at least three full years in the case of ordinary insurance or five full years in the case of industrial insurance, the company will pay, in lieu of any paid-up nonforfeiture benefit, a cash surrender value of such amount as may be hereinafter specified.

(3) That a specified paid-up nonforfeiture benefit shall become effective as specified in the policy unless the person entitled to make such election elects another available option not later than 60 days after the due date of the premium in default. Nothing herein shall prevent the use of an automatic premium loan provision.

(4) That, if the policy shall have become paid up by completion of all premium payments or if it is continued under any paid-up nonforfeiture benefit which became effective on or after the third policy anniversary in the case of ordinary insurance or the fifth policy anniversary in the case of industrial insurance, the company will pay, upon surrender of the policy within 30 days after any policy anniversary, a cash surrender value of such amount as may be hereinafter specified.

(5) In the case of policies which cause on a basis guaranteed in the policy unscheduled changes in benefits or premiums, or which provide an option for changes in benefits or premiums other than a change to a new policy, a statement of the mortality table, interest rate, and method used in calculating cash surrender values and the paid-up nonforfeiture benefits available under the policy. In the case of all other policies, a statement of the mortality table and interest rate used in calculating the cash surrender values and the paid-up nonforfeiture benefits available under the policy, together with a table showing the cash surrender value, if any, and paid-up nonforfeiture benefit, if any available under the policy on each policy anniversary either during the first 20 policy years or during the term of the policy, whichever is shorter, such values and benefits to be calculated upon the assumption that there are no dividends or paid-up additions credited to the policy and that there is no indebtedness to the company on the policy.

(6) A brief and general statement of the method to be used in calculating the cash surrender value and the paid-up nonforfeiture benefit available under the policy on any policy anniversary with an explanation of the manner in which the cash surrender values and the paid-up nonforfeiture benefits are altered by the existence of any paid-up additions credited to the policy or any indebtedness to the company on the policy.
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Any of the foregoing provisions or portions thereof not applicable by reason of the plan of insurance may, to the extent inapplicable, be omitted from the policy.

The company shall reserve the right to defer the payment of any cash surrender value for a period of six months after demand therefor with surrender of the policy."

Sec. 7. Subsection (c) of G.S. 58-201.2 is hereby amended by rewriting the same to read as follows:

"(c) Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary, whether or not required by subsection (b), shall be an amount not less than the excess, if any, of the present value, on such anniversary, of the future guaranteed benefits which would have been provided for by the policy, including any existing paid-up additions, if there had been no default, over the sum of (i) the then present value of the adjusted premiums as defined in subsection (e), corresponding to premiums which would have fallen due on and after such anniversary, and (ii) the amount of any indebtedness to the company on the policy.

Provided, however, that for any policy issued on or after the operative date of subdivision (4) of subsection (e) as defined therein, which provides supplemental life insurance or annuity benefits at the option of the insured and for an identifiable additional premium by rider or supplemental policy provision, the cash surrender value referred to in the first paragraph of this subsection shall be an amount not less than the sum of the cash surrender value as defined in such paragraph for an otherwise similar policy issued at the same age without such rider or supplemental policy provision and the cash surrender value as defined in such paragraph for a policy which provides only the benefits otherwise provided by such rider or supplemental policy provision.

Provided, further, that for any family policy issued on or after the operative date of subdivision (4) of subsection (e) as defined therein, which defines a primary insured and provides term insurance on the life of the spouse of the primary insured expiring before the spouse's age 71, the cash surrender value referred to in the first paragraph of this subsection shall be an amount not less than the sum of the cash surrender value as defined in such paragraph for an otherwise similar policy issued at the same age without such term insurance on the life of the spouse and cash surrender value as defined in such paragraph for a policy which provides only the benefits otherwise provided by such term insurance on the life of the spouse.

Any cash surrender value available within 30 days after any policy anniversary under any policy paid up by completion of all premium payments or any policy continued under any paid-up nonforfeiture benefit, whether or not required by subsection (b), shall be an amount not less than the present value, on such anniversary, of the future guaranteed benefits provided for by the policy, including any existing paid-up additions, decreased by any indebtedness to the company on the policy."

Sec. 8. Subsection (d) of G.S. 58-201.2 is hereby amended by rewriting the same to read as follows:

"(d) Any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment due on any policy anniversary shall be such that its present value as of such anniversary shall be at least equal to the cash surrender value then provided for by the policy or, if none is provided for, at
least equal to that cash surrender value which would have been required by this section in the absence of the condition that premiums shall have been paid for a least a specified period."

Sec. 9. Subsection (e) of G.S. 58-201.2 is hereby amended by rewriting subdivisions (1), (2) and (3) and adding new subdivision (4) to read as follows:

"(e)(1) This subdivision (1) of subsection (e) shall not apply to policies issued on or after the operative date of subdivision (4) of subsection (e) as defined therein. Except as provided in the third paragraph of this subdivision, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding any extra premiums charged because of impairments or special hazards, that the present value, at the date of issue of the policy, of all such adjusted premiums shall be equal to the sum of (i) the then present value of the future guaranteed benefits provided for by the policy; (ii) two percent (2%) of the amount of insurance, if the insurance be uniform in amount, or of the equivalent uniform amount, as hereinafter defined, if the amount of insurance varies with duration of the policy; (iii) forty percent (40%) of the adjusted premium for the first policy year; (iv) twenty-five percent (25%) of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less. Provided, however, that in applying the percentages specified in (iii) and (iv) above, no adjusted premium shall be deemed to exceed four percent (4%) of the amount of insurance or uniform amount equivalent thereto. The date of issue of a policy for the purpose of this subsection shall be the date as of which the rated age of the insured is determined.

In the case of a policy providing an amount of insurance varying with duration of the policy, the equivalent uniform amount thereof for the purpose of this section shall be deemed to be the uniform amount of insurance provided by an otherwise similar policy containing the same endowment benefit or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the date of issue as the benefits under the policy, provided, however, that in the case of a policy providing a varying amount of insurance issued on the life of a child under age 10, the equivalent uniform amount may be computed as though the amount of insurance provided by the policy prior to the attainment of age 10 were the amount provided by such policy at age 10.

The adjusted premiums for any policy providing term insurance benefits by rider or supplemental policy provision shall be equal to (i) the adjusted premiums for an otherwise similar policy issued at the same age without such term insurance benefits, increased, during the period for which premiums for such term insurance benefits are payable, by (ii) the adjusted premiums for such term insurance, the foregoing items (i) and (ii) being calculated separately and as specified in the first two paragraphs of this subsection except that, for the purposes of (ii), (iii) and (iv) of the first such paragraph, the amount of insurance or equivalent uniform amount of insurance used in the calculation of the adjusted premiums referred to in (ii) of this paragraph shall be equal to the excess of the corresponding amount determined for the entire policy over the amount used in the calculation of the adjusted premiums in (i).
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Except as otherwise provided in subdivisions (2) and (3) of this subsection, all adjusted premiums and present values referred to in this section shall for all policies of ordinary insurance be calculated on the basis of the Commissioner's 1941 Standard Ordinary Mortality Table, provided that for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than three years younger than the actual age of the insured, and such calculations for all policies of industrial insurance shall be made on the basis of the 1941 Standard Industrial Mortality Table. All calculations shall be made on the basis of the rate of interest, not exceeding three and one-half percent (3-1/2%) per annum, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits. Provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may not be more than one hundred and thirty percent (130%) of the rates of mortality according to such applicable table. Provided, further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the Commissioner.

(2) This subdivision (2) of subsection (e) shall not apply to ordinary policies issued on or after the operative date of subdivision (4) of subsection (e) as defined herein. In the case of ordinary policies issued on or after the operative date of this subdivision (2) as defined herein, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the Commissioner's 1958 Standard Ordinary Mortality Table and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits, provided that such rate of interest shall not exceed three and one-half percent (3-1/2%) per annum except that a rate of interest not exceeding four percent (4%) per annum may be used for policies issued on or after July 1, 1975, and prior to April 19, 1979, and a rate of interest not exceeding five and one-half percent (5-1/2%) per annum may be used for policies issued on or after April 19, 1979, and, provided that for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than six years younger than the actual age of the insured; provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioner's 1958 Extended Term Insurance Table. Provided, further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the Commissioner.

After May 12, 1959, any company may file with the Commissioner a written notice of its election to comply with the provisions of this subdivision (2) after a specified date before January 1, 1966. After the filing of such notice, then upon such specified date (which shall be the operative date of this subdivision (2) for such company), this subdivision (2) shall become operative with respect to the ordinary policies thereafter issued by such company. If a company makes no such election, the operative date of this subdivision (2) for such company shall be January 1, 1966.

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(3) This subdivision (3) of subsection (e) shall not apply to industrial policies issued on or after the operative date of subdivision (4) of subsection (e) as defined therein. In the case of industrial policies issued on or after the operative date of this subdivision (3) as defined herein, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the Commissioner's 1961 Standard Industrial Mortality Table and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits, provided that such rate of interest shall not exceed three and one-half percent (3-1/2%) per annum except that a rate of interest not exceeding four percent (4%) per annum may be used for policies issued on or after July 1, 1975, and prior to April 19, 1979, and a rate of interest not exceeding five and one-half percent (5-1/2%) per annum may be used for policies issued on or after April 19, 1979; provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioner's 1961 Industrial Extended Term Insurance Table. Provided, further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the Commissioner.

After June 11, 1963, any company may file with the Commissioner a written notice of its election to comply with the provisions of this subdivision (3) after a specified date before January 1, 1968. After the filing of such notice, then upon such specified date (which shall be the operative date of this subdivision (3) for such company), this subdivision (3) shall become operative with respect to the industrial policies thereafter issued by such company. If a company makes no such election, the operative date of this subdivision (3) for such company shall be January 1, 1968.

(4) a. This subdivision shall apply to all policies issued on or after the operative date of this subdivision (4) of subsection (e) as defined herein. Except as provided in paragraph g. of this subdivision, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments or special hazards and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the date of issue of the policy, of all adjusted premiums shall be equal to the sum of (i) the then present value of the future guaranteed benefits provided for by the policy; (ii) one percent (1%) of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years; and (iii) one hundred twenty-five percent (125%) of the nonforfeiture net level premium as hereinafter defined. Provided, however, that in applying the percentage specified in (iii) above no nonforfeiture net level premium shall be deemed to exceed four percent (4%) of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years. The date of issue of a policy for the purpose of this subdivision shall be the date as of which the rated age of the insured is determined.
b. The nonforfeiture net level premium shall be equal to the present value, at the date of issue of the policy, of the guaranteed benefits provided for by the policy divided by the present value, at the date of issue of the policy, of an annuity of one per annum payable on the date of issue of the policy and on each anniversary of such policy on which a premium falls due.

c. In the case of policies which cause on a basis guaranteed in the policy unscheduled changes in benefits or premiums, or which provide an option for changes in benefits or premiums other than a change to a new policy, the adjusted premiums and present values shall initially be calculated on the assumption that future benefits and premiums do not change from those stipulated at the date of issue of the policy. At the time of any such change in the benefits or premiums the future adjusted premiums, nonforfeiture net level premiums and present values shall be recalculated on the assumption that future benefits and premiums do not change from those stipulated by the policy immediately after the change.

d. Except as otherwise provided in paragraph g. of this subdivision, the recalculated future adjusted premiums for any such policy shall be such uniform percentage of the respective future premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments and special hazards, and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the time of change to the newly defined benefits or premiums, of all such future adjusted premiums shall be equal to the excess of (A) the sum of (i) the then present value of the then future guaranteed benefits provided for by the policy and (ii) the additional expense allowance, if any, over (B) the then cash surrender value, if any, or present value of any paid-up nonforfeiture benefit under the policy.

e. The additional expense allowance, at the time of the change to the newly defined benefits or premiums, shall be the sum of (i) one percent (1%) of the excess, if positive, of the average amount of insurance at the beginning of each of the first 10 policy years subsequent to the change over the average amount of insurance prior to the change at the beginning of each of the first 10 policy years subsequent to the time of the most recent previous change, or, if there has been no previous change, the date of issue of the policy; and (ii) one hundred twenty-five percent (125%) of the increase, if positive, in the nonforfeiture net level premium.

f. The recalculated nonforfeiture net level premium shall be equal to the result obtained by dividing (A) by (B) where

(A) equals the sum of

(i) the nonforfeiture net level premium applicable prior to the change times the present value of an annuity of one per annum payable on each anniversary of the policy on or subsequent to the date of the change on which a premium would have fallen due had the change not occurred, and

(ii) the present value of the increase in future guaranteed benefits provided for by the policy, and

(B) equals the present value of an annuity of one per annum payable on each anniversary of the policy on or subsequent to the date of change on which a premium falls due.
g. Notwithstanding any other provisions of this subdivision to the contrary, in the case of a policy issued on a substandard basis which provides reduced graded amounts of insurance so that, in each policy year, such policy has the same tabular mortality cost as an otherwise similar policy issued on the standard basis which provides higher uniform amounts of insurance, adjusted premiums and present values for such substandard policy may be calculated as if it were issued to provide such higher uniform amounts of insurance on the standard basis.

h. All adjusted premiums and present values referred to in this section shall for all policies of ordinary insurance be calculated on the basis of (i) the Commissioner's 1980 Standard Ordinary Mortality Table or (ii) at the election of the company for any one or more specified plans of life insurance, the Commissioner's 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors; shall for all policies of industrial insurance be calculated on the basis of the Commissioner's 1961 Standard Industrial Mortality Table; and shall for all policies issued in a particular calendar year be calculated on the basis of a rate of interest not exceeding the nonforfeiture interest rate as defined in this subdivision for policies issued in that calendar year. Provided, however, that:

1. At the option of the company, calculations for all policies issued in a particular calendar year may be made on the basis of a rate of interest not exceeding the nonforfeiture interest rate, as defined in this subdivision, for policies issued in the immediately preceding calendar year.

2. Under any paid-up nonforfeiture benefit, including any paid-up dividend additions, any cash surrender value available, whether or not required by subsection (b), shall be calculated on the basis of the mortality table and rate of interest used in determining the amount of such paid-up nonforfeiture benefit and paid-up dividend additions, if any.

3. A company may calculate the amount of any guaranteed paid-up nonforfeiture benefit including any paid-up additions under the policy on the basis of an interest rate no lower than that specified in the policy for calculating cash surrender values.

4. In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioner's 1980 Extended Term Insurance Table for policies of ordinary insurance and not more than the Commissioner's 1961 Industrial Extended Term Insurance Table for policies of industrial insurance.

5. For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on appropriate modifications of the aforementioned tables.

6. Any ordinary mortality tables, adopted after 1980 by the National Association of Insurance Commissioners, that are approved by regulation promulgated by the Commissioner for use in determining the minimum nonforfeiture standard may be substituted for the Commissioner's 1980 Standard Ordinary Mortality Table with or without Ten-Year Select Mortality Factors or for the Commissioner's 1980 Extended Term Insurance Table.
7. Any industrial mortality tables, adopted after 1980 by the National Association of Insurance Commissioners, that are approved by regulation promulgated by the Commissioner for use in determining the minimum nonforfeiture standard may be substituted for the Commissioner's 1961 Standard Industrial Mortality Table or the Commissioner's 1961 Industrial Extended Term Insurance Table.

   i. The nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be equal to one hundred and twenty-five percent (125%) of the calendar year statutory valuation interest rate for such policy as defined in the Standard Valuation Law, rounded to the nearer one quarter of one percent (1/4 of 1%).

   j. Notwithstanding any other provision in this Chapter to the contrary, any refiling of nonforfeiture values or their methods of computation for any previously approved policy form which involves only a change in the interest rate or mortality table used to compute nonforfeiture values shall not require refiling of any other provisions of that policy form.

   k. After the effective date of this subdivision (4) of subsection (e), any company may file with the Commissioner a written notice of its election to comply with the provisions of this subdivision after a specified date before January 1, 1989, which shall be the operative date of this subdivision for such company. If a company makes no such election, the operative date of this subdivision for such company shall be January 1, 1989.”

Sec. 10. G.S. 58-201.2 is hereby amended by adding a new subsection (f) to read as follows:

“(f) In the case of any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurance company based on then estimates of future experience, or in the case of any plan of life insurance which is of such a nature that minimum values cannot be determined by the methods described in subsections (b), (c), (d), or (e) herein, then:

(1) the Commissioner must be satisfied that the benefits provided under the plan are substantially as favorable to policyholders and insureds as the minimum benefits otherwise required by subsections (b), (c), (d), or (e) herein;

(2) the Commissioner must be satisfied that the benefits and the pattern of premiums of that plan are not such as to mislead prospective policyholders or insureds;

(3) the cash surrender values and paid-up nonforfeiture benefits provided by such plan must not be less than the minimum values and benefits required for the plan computed by a method consistent with the principles of this Standard Nonforfeiture Law, as determined by regulations promulgated by the Commissioner.”

Sec. 11. G.S. 58-201.2 is hereby amended by redesignating former subsection (f) as subsection (g) and by rewriting the same to read as follows:

“(g) Any cash surrender value and any paid-up nonforfeiture benefit, available under the policy in the event of default in a premium payment due at any time other than on the policy anniversary, shall be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary. Any values referred to in subsections (c), (d) and (e) may be calculated upon the assumption that any death benefit is
payable at the end of the policy year of death. The net value of any paid-up additions, other than paid-up term additions, shall be not less than the amounts used to provide such additions. Notwithstanding the provisions of Section 3, additional benefits payable (i) in the event of death or dismemberment by accident or accidental means, (ii) in the event of total and permanent disability, (iii) as reversionary annuity or deferred reversionary annuity benefits, (iv) as term insurance benefits provided by a rider or supplemental policy provision to which, if issued as a separate policy, this section would not apply, (v) as term insurance on the life of a child or on the lives of children provided in a policy on the life of a parent of the child, if such term insurance expires before the child's age is 26, is uniform in amount after the child's age is one, and has not become paid up by reason of the death of a parent of the child, and (vi) as other policy benefits additional to life insurance and endowment benefits, and premiums for all such additional benefits, shall be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by this section, and no such additional benefits shall be required to be included in any paid-up nonforfeiture benefits.”

Sec. 12. G.S. 58-201.2 is hereby amended by adding a new subsection (h) to read as follows:

“(h) This subsection, in addition to all other applicable subsections of this section, shall apply to all policies issued on or after January 1, 1985. Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary shall be in an amount which does not differ by more than two-tenths of one percent (2/10 of 1%) of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years, from the sum of (1) the greater of zero and the basic cash value hereinafter specified and (2) the present value of any existing paid-up additions less the amount of any indebtedness to the company under the policy.

The basic cash value shall be equal to the present value, on such anniversary, of the future guaranteed benefits which would have been provided for by the policy, excluding any existing paid-up additions and before deduction of any indebtedness to the company, if there had been no default, less the then present value of the nonforfeiture factors, as hereinafter defined, corresponding to premiums which would have fallen due on and after such anniversary. Provided, however, that the effects on the basic cash value of supplemental life insurance or annuity benefits or of family coverage, as described in subsection (c) or (e)(1), whichever is applicable, shall be the same as are the effects specified in subsection (c) or (e)(1), whichever is applicable, on the cash surrender values defined in that subsection.

The nonforfeiture factor for each policy year shall be an amount equal to a percentage of the adjusted premium for the policy year, as defined in subsection (e)(1) or (e)(4), whichever is applicable. Except as is required by the next succeeding sentence of this paragraph, such percentage:

(1) must be the same percentage for each policy year between the second policy anniversary and the later of (i) the fifth policy anniversary and (ii) the first policy anniversary at which there is available under the policy a cash surrender value in an amount, before including any paid-up additions and before deducting any indebtedness, of at least two-tenths of one percent (2/10 of 1%) of either the amount of insurance, if the
insurance be uniform in amount, or the average amount of insurance at
the beginning of each of the first 10 policy years; and
(2) must be such that no percentage after the later of the two policy
anniversaries specified in the preceding item (1) may apply to fewer
than five consecutive policy years.

Provided, that no basic cash value may be less than the value which would be
obtained if the adjusted premiums for the policy, as defined in subsection (e)(1)
or (e)(4), whichever is applicable, were substituted for the nonforfeiture factors
in the calculation of the basic cash value.

All adjusted premiums and present values referred to in this subsection shall
for a particular policy be calculated on the same mortality and interest bases as
are used in demonstrating the policy's compliance with the other subsections of
this section. The cash surrender values referred to in this subsection shall
include any endowment benefits provided for by the policy.

Any cash surrender value available other than in the event of default in a
premium payment due on a policy anniversary, and the amount of any paid-up
nonforfeiture benefit available under the policy in the event of default in a
premium payment shall be determined in manners consistent with the manners
specified for determining the analogous minimum amounts in subsections (b),
(c), (d), (e)(4), and (g). The amounts of any cash surrender values and of any paid-
up nonforfeiture benefits granted in connection with additional benefits such as
those listed as items (i) through (vi) in subsection (g) shall conform with the
principles of this subsection (h).”

Sec. 13. G.S. 58-201.2 is hereby amended by redesignating former
subsection (g) as subsection (i) and by rewriting the same to read as follows:
“(i) The provisions of this section shall not apply to any of the following:
(1) industrial sick benefit insurance as defined in this Chapter,
(2) reinsurance,
(3) group insurance,
(4) pure endowment,
(5) annuity or reversionary annuity contract,
(6) term policy of uniform amount, which provides no guaranteed
nonforfeiture or endowment benefits, or renewal thereof, of 20 years or
less, for which uniform premiums are payable during the entire term of
the policy,
(7) term policy of decreasing amount, which provides no guaranteed
nonforfeiture or endowment benefits, on which each adjusted premium,
calculated as specified in subsection (e), is less than the adjusted
premium so calculated, on a term policy of uniform amount, or renewal
thereof, which provides no guaranteed nonforfeiture or endowment
benefits, issued at the same age and for the same initial amount of
insurance and for a term of 20 years or less expiring before age 71, for
which uniform premiums are payable during the entire term of the
policy,
(8) policy, which provides no guaranteed nonforfeiture or endowment
benefits, for which no cash surrender value, if any, or present value of
any paid-up nonforfeiture benefit, at the beginning of any policy year,
calculated as specified in subsections (c), (d) and (e), exceeds two and one-
half percent (2-1/2%) of the amount of insurance at the beginning of the
same policy year, nor

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(9) policy which shall be delivered outside this State through an agent or other representative of the company issuing the policy.

For purposes of determining the applicability of this section, the age at expiry for a joint term life insurance policy shall be the age at expiry of the oldest life.”

Sec. 14. G.S. 58-201.2 is hereby amended by repealing former subsection (h), and reenacting as subsection (j) to read as follows:

“(j) After March 6, 1945, any company may file with the Commissioner a written notice of its election to comply with the provisions of this section after a specified date before January 1, 1950. After the filing of such notice then upon such specified date (which shall be the operative date for such company) this section shall become operative with respect to the policies thereafter issued by such company. If a company makes no such election, the operative date of this section for such company shall be January 1, 1950.”

Sec. 15. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1981.

H. B. 1260 CHAPTER 762

AN ACT TO AMEND CHAPTERS 96 AND 84 OF THE GENERAL STATUTES TO PERMIT PERSONS SUPERVISED BY ATTORNEYS TO REPRESENT PARTIES IN PROCEEDINGS BEFORE THE EMPLOYMENT SECURITY COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 96-17(b) is amended by deleting the entire paragraph and replacing it with a new section as follows:

“(b) Representation: Any claimant or employer who is a party to any proceeding before the Commission may be represented by (1) an attorney; or (2) any person who is supervised by an attorney, however, the attorney need not be present at any proceeding before the Commission.”

Sec. 2. G.S. 96-17(c) is relabelled 96-17(d) and a new 96-17(c) is added as follows:

“(c) Fees prohibited: No individual claiming benefits in any proceeding under this Chapter shall be charged fees of any kind by the Commission or its representative or by any court or any employee thereof.”

Sec. 3. G.S. 84-4 is amended by deleting the words “or the Employment Security Commission” from the first sentence of this section, and inserting the words “or the” between “North Carolina Industrial Commission,” and “Utilities Commission”.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1981.
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H. B. 169  CHAPTER 763

AN ACT TO PROVIDE THAT WHEN VACANCIES OCCUR IN THE OFFICES OF COUNTY COMMISSIONER, SHERIFF, REGISTER OF DEEDS, CORONER, OR PARTISAN SCHOOL BOARD RACES, THE APPOINTING BOARD OR PERSON MUST APPOINT THE PERSON RECOMMENDED BY THE POLITICAL PARTY EXECUTIVE COMMITTEE OF THE VACATING OFFICER, AND BY REQUIRING A DISTRICT BAR TO NOMINATE CANDIDATES FOR DISTRICT COURT JUDGES OF THE SAME PARTY OF THE VACATING JUDGE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-142 is amended by adding the following language immediately after the first sentence:

“If the district court judge was elected as the nominee of a political party, then the district bar shall submit to the Governor the names of three persons who are residents of the district who are duly authorized to practice law in the district and who are members of the same political party as the vacating judge; provided that if there are not three persons who are available, the bar shall submit the names of two persons who meet the qualifications of this sentence."

Sec. 2. G.S. 7A-142 is further amended in the last sentence by deleting the words “four weeks”, and inserting in lieu thereof the words “thirty days”.

Sec. 3. G.S. 163-9 is amended by deleting the last two sentences and inserting the following new language in its place:

“Vacancies in the office of district judge shall be filled in accordance with G.S. 7A-142.”

Sec. 4. Chapter 115C of the General Statutes as enacted by Chapter 423, Session Laws of 1981, is amended by adding a new section to read:

“§ 115C-37.1. Vacancies in offices of county boards elected on a partisan basis.—(a) All vacancies in the membership of county boards of education which are elected by public or local act on a partisan basis shall be filled by appointment of the person, board, or commission specified in the act, except that if the act specifies that appointment shall be made by a party executive committee, then the appointment shall be made instead by the remaining members of the board.

(b) If the vacating member was elected as the nominee of a political party, then the person, board, or commission required to fill the vacancy shall consult with the county executive committee of that party and appoint the person recommended by that party executive committee, if the party executive committee makes a recommendation within 30 days of the occurrence of the vacancy.

(c) Whenever only the qualified voters of less than the entire county were eligible to vote for the member whose seat is vacant (either because the county administrative unit was less than countywide or only residents of certain areas of the administrative unit could vote in the general election for a district seat), the appointing authority must accept the recommendation only if the county executive committee restricted voting to committee members who represent precincts all or part of which were within the territory of the vacating school board member.”

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Sec. 5. G.S. 152-1 is amended by adding the following new language at the end of the second paragraph:

"If the coroner were elected as the nominee of a political party, then the county commissioners shall consult with the county executive committee of that political party before filling the vacancy, and shall appoint the person recommended by that committee if the party makes a recommendation within 30 days of the occurrence of the vacancy."

Sec. 6. Chapter 153A of the General Statutes is amended by adding a new section to read:

"§ 153A-27.1. Vacancies on the board of commissioners.—(a) If a vacancy occurs on the board of commissioners, the remaining members of the board shall appoint a qualified person to fill the vacancy. If the number of vacancies on the board is such that a quorum of the board cannot be obtained, the chairman of the board shall appoint enough members to make up a quorum, and the board shall then proceed to fill the remaining vacancies. If the number of vacancies on the board is such that a quorum of the board cannot be obtained and the office of chairman is vacant, the clerk of superior court of the county shall fill the vacancies upon the request of any remaining member of the board or upon the petition of any registered voters of the county.

(b) If the member being replaced was serving a two-year term, or if the member was serving a four-year term and the vacancy occurs later than 30 days before the general election held after the first two years of the term, the appointment to fill the vacancy is for the remainder of the unexpired term. Otherwise, the term of the person appointed to fill the vacancy extends to the first Monday in December next following the first general election held more than 30 days after the day the vacancy occurs; at that general election, a person shall be elected to the seat vacated for the remainder of the unexpired term.

(c) To be eligible for appointment to fill a vacancy, a person must (i) be a member of the same political party as the member being replaced, if that member was elected as the nominee of a political party, and (ii) be a resident of the same district as the member being replaced, if the county is divided into electoral districts.

(d) If the member who vacated the seat was elected as a nominee of a political party, the board of commissioners, the chairman of the board, or the clerk of superior court, as the case may be, shall consult the county executive committee of the appropriate political party before filling the vacancy, and shall appoint the person recommended by the county executive committee of the political party of which the commissioner being replaced was a member, if the party makes a recommendation within 30 days of the occurrence of the vacancy.

(e) Whenever because of G.S. 153A-58(3)b, or because of any local act, only the qualified voters of an area which is less than the entire county were eligible to vote in the general election for the member whose seat is vacant, the appointing authority must accept the recommendation only if the county executive committee restricted voting to committee members who represent precincts all or part of which were within the territorial area of the district of the county commissioner.

(f) The provisions of any local act which provides that a county executive committee of a political party shall fill any vacancy on a board of county commissioners are repealed.

(g) Counties subject to this section are not subject to G.S. 153A-27."
Sec. 7. (a) Chapter 267, Session Laws of 1979, is repealed.
(b) Section 3 of Chapter 202, Session Laws of 1975, is repealed.

Sec. 8. G.S. 161-5 is amended by adding a new subsection to read:

"(a1) When a vacancy occurs from any cause in the office of register of deeds, the board of county commissioners shall fill such vacancy by the appointment of a successor for the unexpired term, who shall qualify and give bond as required by law. If the register of deeds were elected as the nominee of a political party, the board of county commissioners shall consult the county executive committee of that political party before filling the vacancy and shall appoint the person recommended by that committee, if the party makes a recommendation within 30 days of the occurrence of the vacancy. Counties subject to this subsection are not subject to subsection (a)."

Sec. 9. (a) Chapter 868, Session Laws of 1975, is repealed.
(b) Section 2 of Chapter 202, Session Laws of 1975, is repealed.

Sec. 10. G.S. 162-5 is amended by deleting the words, "the first meeting of the county commissioners next succeeding such vacancy", and is further amended by adding the following new sentence immediately following the first sentence:

"If the sheriff were elected as a nominee of a political party, the board of commissioners shall consult the county executive committee of that political party before filling the vacancy, and shall elect the person recommended by the county executive committee of that party, if the party makes a recommendation within 30 days of the occurrence of the vacancy."

Sec. 11. (a) Chapter 405, Session Laws of 1969, is repealed.
(b) Section 1 of Chapter 202, Session Laws of 1975, is repealed.

Sec. 12. (a) When a vacancy occurs in the office of Wake County Commissioner more than one year prior to the next general election after election to a four-year term, or after that general election but more than one year prior to the next general election, the Wake County Board of Commissioners may reject the nomination of a party to fill the vacancy made under Section 6 of this act (G.S. 153A-27.1). If it does so, it must call a special primary election for the purpose of allowing the members of that party to make a recommendation. The special primary election shall be conducted in accordance with Article 10 of Chapter 163 of the General Statutes, except that the Wake County Board of Elections may, with the approval of the State Board of Elections set deadlines for filing notices of candidacy and for absentee voting in the special primary election. Only persons who are affiliated with the party may vote.

The Wake County Board of Commissioners shall immediately upon the certification of the primary returns appoint the winner to serve until the first Monday in December following the next general election which occurs after the date of the vacancy. The date of the special primary election shall be set by the Wake County Board of Commissioners.

(b) When a vacancy occurs in the office of Wake County Commissioner at any other time than the two one-year periods described in subsection (a) of this section, G.S. 153A-27.1 as amended by Section 6 of this act shall apply.

(c) This section applies to vacancies occurring after the effective date of this act.

Sec. 13. All local acts in conflict with this act are repealed to the extent of the conflict.
Sec. 14. Sections 4 through 11, and Section 13, of this act shall apply only in the following counties: Alamance, Alleghany, Beaufort, Brunswick, Buncombe, Burke, Cabarrus, Caldwell, Cherokee, Clay, Cleveland, Davidson, Davie, Graham, Guilford, Haywood, Henderson, Jackson, Madison, McDowell, Mecklenburg, Moore, New Hanover, Polk, Randolph, Rockingham, Rutherford, Stanly, Stokes, Transylvania, Wake, and Yancey.

Sec. 15. This act shall become effective July 1, 1981, and applies to vacancies occurring on or after that date.

In the General Assembly read three times and ratified, this the 1st day of July, 1981.

H. B. 136

CHAPTER 764

AN ACT TO REGULATE CONTRACTORS, SUBCONTRACTORS, AND SUPPLIERS IN DEALING WITH GOVERNMENTAL AGENCIES, AND TO MAKE COMBINATIONS IN RESTRAINT OF TRADE A FELONY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 133 of the General Statutes is amended by adding a new Article 3 to be entitled "Regulation of Contractors for Public Works", to be codified and to read as follows:

"§ 133-20. Definition.—(a) The term 'governmental agency' shall include the State of North Carolina, its agencies, institutions, and political subdivisions, all municipal corporations and all other public units, agencies and authorities which are authorized to enter into public contracts for construction or repair or for procurement of goods or services.

(b) The term 'person' shall mean any individual, partnership, corporation, association, or other entity formed for the purpose of doing business as a contractor, subcontractor, or supplier.

(c) The term 'subsidiary' is used as defined in G.S. 55-2(9).

"§ 133-21. Government contracts; violation of G.S. 75-1 and G.S. 75-2.—Every person who shall engage in any conspiracy, combination, or any other act in restraint of trade or commerce declared to be unlawful by the provisions of G.S. 75-1 and G.S. 75-2 shall be guilty of a felony under this section where the combination, conspiracy, or other unlawful act in restraint of trade involves:

(a) a contract for the purchase of equipment, goods, services or materials or for construction or repair let or to be let by a governmental agency;

(b) a subcontract for the purchase of equipment, goods, services or materials or for construction or repair with a prime contractor or proposed prime contractor for a governmental agency.

"§ 133-22. Conviction; punishment.—(a) Upon conviction of violating G.S. 133-21, any person shall be punished as a Class H felon. The court may also impose a fine of up to one hundred thousand dollars ($100,000) on any convicted individual and a fine of up to one million dollars ($1,000,000) on any convicted corporation. Any fine imposed pursuant to this section shall not be deductible on a State income tax return for any purpose.

(b) For a period of up to three years from the date of conviction, said period to be determined in the discretion of the court, no person shall be eligible to enter into a contract with any governmental agency, either directly as a contractor or indirectly as a subcontractor, if that person has been convicted of violating G.S. 133-21.
(c) In the event an individual is convicted of violating G.S. 133-21, the court may, in its discretion, for a period of up to three years from the date of conviction, provide that the individual shall not be employed by a corporation as an officer, director, employee or agent, if that corporation engages in public construction or repair contracts with a governmental agency, either directly as a contractor or indirectly as a subcontractor.

(d) The court shall also have authority to direct the appropriate contractor's licensing board to suspend the license of any contractor convicted of violating G.S. 133-21 for a period of up to three years from the date of conviction.

“§ 133-23. Individuals convicted may not serve on licensing boards.—No individual shall be eligible to serve as a member of any contractor's licensing board who has been convicted of criminal charges involving either:

(a) a conspiracy in restraint of trade in the courts of this State in violation of G.S. 75-1, G.S. 75-2, or G.S. 133-21, or similar charges in any federal court or in any other state court; or

(b) bribery or commercial bribery in violation of G.S. 14-218 or G.S. 14-353 in the courts of this State, or of similar charges in any federal court or the court of any other state.

“§ 133-24. Suspension from bidding.—Any governmental agency shall have the authority to suspend for a period of up to three years from the date of conviction any person and any subsidiary or affiliate of any person from further bidding to the agency and from being a subcontractor to a contractor for the agency and from being a supplier to the agency if that person or any officer, director, employee or agent of that person has been convicted of charges of engaging in any conspiracy, combination, or other unlawful act in restraint of trade or of similar charges in any federal court or a court of any other state.

A governmental agency may order a temporary suspension of any contractor, subcontractor, or supplier or subsidiary or affiliate thereof charged in an indictment or an information with engaging in any conspiracy, combination, or other unlawful act in restraint of trade or of similar charges in any federal court or a court of this or any other state until the charges are resolved.

The provisions of this section are in addition to and not in derogation of any other powers and authority of any governmental agency.

“§ 133-25. Civil damages; liability; release.—(a) Any governmental agency entering into a contract which is or has been the subject of a conspiracy prohibited by G.S. 75-1 or G.S. 75-2 shall have a right of action against the participants in the conspiracy to recover damages, as provided herein. The governmental agency shall have the option to proceed jointly and severally in a civil action against any one or more of the participants for recovery of the full amount of the damages. There shall be no right to contribution among participants not named defendants by the governmental agency.

(b) At the election of the governmental agency, the measure of damages recoverable under this section shall be either the actual damages or ten percent (10%) of the contract price which shall be trebled as provided in G.S. 75-16.

(c) The cause of action shall accrue at the time of discovery of the conspiracy by the governmental agency which entered into the contract. The action shall be brought within three years of the date of accrual of the cause of action.

“§ 133-26. Reporting of violations of G.S. 75-1 or G.S. 75-2.—Any person having knowledge of acts committed in violation of G.S. 75-1 or G.S. 75-2 involving a contract with a governmental agency who reports the same to that
governmental agency and assists in any resulting proceedings may receive a reward as set forth herein. The governmental agency is authorized to pay to the informant up to twenty-five percent (25%) of any civil damages that it collects from the violator named by the informant by reason of the information furnished by the informant. The information and knowledge to be reported includes but is not limited to any agreement or proposed agreement or offer or request for agreement among contractors, subcontractors or suppliers to rotate bids, to share the profits with a contractor not the low bidder, to sublet work in advance of bidding as a means of preventing competition, to refrain from bidding, to submit prearranged bids, to submit complimentary bids, to set up territories to restrict competition, or to alternate bidding.

§ 133-27. Noncollusion affidavits.—Noncollusion affidavits may be required by rule of any governmental agency from all prime bidders. Any such requirement shall be set forth in the invitation to bid. Failure of any bidder to provide a required affidavit to the governmental agency shall be grounds for disqualification of his bid. The provisions of this section are in addition to and not in derogation of any other powers and authority of any governmental agency.

§ 133-28. Perjury; punishment.—Any person who shall willfully commit perjury in any affidavit taken pursuant to this Article or rules pursuant thereto shall be guilty of a felony and shall be punished as a Class H felon.

§ 133-29. Gifts and favors regulated.—(a) It shall be unlawful for any contractor, subcontractor, or supplier who:

(1) has a contract with a governmental agency; or
(2) has performed under such a contract within the past year; or
(3) anticipates bidding on such a contract in the future

to make gifts or to give favors to any officer or employee of a governmental agency who is charged with the duty of:

(1) preparing plans, specifications, or estimates for public contract; or
(2) awarding or administering public contracts; or
(3) inspecting or supervising construction,

It shall also be unlawful for any officer or employee of a governmental agency who is charged with the duty of:

(1) preparing plans, specifications, or estimates for public contracts; or
(2) awarding or administering public contracts; or
(3) inspecting or supervising construction

willfully to receive or accept any such gift or favor.

(b) A violation of subsection (a) shall be a misdemeanor.

(c) Gifts or favors made unlawful by this section shall not be allowed as a deduction for North Carolina tax purposes by any contractor, subcontractor or supplier or officers or employees thereof.

(d) This section is not intended to prevent the gift and receipt of honorariums for participating in meetings, advertising items or souvenirs of nominal value, or meals furnished at banquets. This section is also not intended to prohibit customary gifts or favors between employees or officers and their friends and relatives or the friends and relatives of their spouses, minor children, or members of their household where it is clear that it is that relationship rather than the business of the individual concerned which is the motivating factor for the gift or favor. However, all such gifts knowingly made or received are required to be reported by the donee to the agency head if the gifts are made by
a contractor, subcontractor, or supplier doing business directly or indirectly with the governmental agency employing the recipient of such a gift.

§ 133-30. Cost estimates; bidders' lists.—Any governmental agency responsible for letting public contracts may promulgate rules concerning the confidentiality of:

1. the agency's cost estimate for any public contracts prior to bidding; and
2. the identity of contractors who have obtained proposals for bid purposes for a public contract.

If the agency's rules require that such information be kept confidential, an employee or officer of the agency who divulges such information to any unauthorized person shall be subject to disciplinary action. This section shall not be construed to require that cost estimates or bidders' lists be kept confidential.

Sec. 2. The second sentence of G.S. 75-1 is rewritten to read as follows: "Every person or corporation who shall make any such contract expressly or shall knowingly be a party thereto by implication, or who shall engage in any such combination or conspiracy shall be guilty of a Class H felony."

Sec. 3. If any provision of this act or the application of it to any person or circumstances is held invalid, the invalidity does not affect any other provision of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Sec. 4. This act shall become effective 60 days after ratification and shall be prospective in its application.

In the General Assembly read three times and ratified, this the 2nd day of July, 1981.

H. B. 297

CHAPTER 765

AN ACT TO AMEND CHAPTER 90, ARTICLE 18B OF THE GENERAL STATUTES RELATING TO PHYSICAL THERAPY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-270.25 is amended by replacing the second and third sentences with the following:

"The board shall consist of eight members, including one medical doctor licensed and residing in North Carolina, four physical therapists, two physical therapists assistants, and one public member. The public member shall be appointed by the Governor and shall be a person who is not licensed under G.S. Chapter 90 who shall represent the interest of the public at large. The medical doctor, physical therapists, and physical therapists assistants shall be appointed by the Governor from a list compiled by the North Carolina Physical Therapy Association, Inc., following the use of a nomination procedure made available to all physical therapists and physical therapists assistants licensed and residing in North Carolina. One physical therapist member shall be appointed by the Lieutenant Governor and one by the Speaker of the House. The Lieutenant Governor and Speaker of the House, respectively, shall fill the first and second vacancies in physical therapist members of the board arising by expiration of term after July 1, 1981, and shall continue to appoint their respective successors; the Governor shall fill all other vacancies arising by expiration of term. The records of the operation of the nomination procedure shall be filed
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with the board, to be available for a period of six months following nomination, for reasonable inspection by any licensed practitioner."

Sec. 2. G.S. 143-34.12 is amended by deleting line 14 which reads as follows:

"Chapter 90, Article 18, entitled 'Physical Therapy'."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of July, 1981.

H. B. 298  CHAPTER 766

AN ACT TO AMEND CHAPTER 90, ARTICLE 8 OF THE GENERAL STATUTES RELATING TO CHIROPRACTORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-139 is rewritten to read as follows:

"§ 90-139. Creation and membership of Board of Examiners.—(a) The State Board of Chiropractic Examiners is created to consist of seven members appointed by the Governor, Lieutenant Governor and Speaker of the House. Six of the members shall be practicing doctors of chiropractic, who are residents of this State and who have actively practiced chiropractic in the State for at least eight consecutive years immediately preceding their appointments; four of these six members shall be appointed by the Governor, and one each by the Lieutenant Governor and the Speaker of the House. No more than three members of the board may be graduates of the same college or school of chiropractic. The other member shall be a person chosen by the Governor to represent the public at large. The public member shall not be a health care provider nor the spouse of a health care provider. For purposes of board membership, 'health care provider' means any licensed health care professional and any agent or employee of any health care institution, health care insurer, health care professional school, or a member of any allied health profession. For purposes of this section, a person enrolled in a program to prepare him to be a licensed health care professional or an allied health professional shall be deemed a health care provider. For purposes of this section, any person with significant financial interest in a health service or profession is not a public member.

(b) All board members serving on June 30, 1981, shall be eligible to complete their respective terms. No member appointed to the board on or after July 1, 1981, shall serve more than two complete consecutive three-year terms, except that each member shall serve until his successor is chosen and qualifies. The Lieutenant Governor and Speaker of the House, respectively, shall fill the first and second vacancies in chiropractic members of the board arising by expiration of term after July 1, 1981, and shall continue to appoint their respective successors; the Governor shall fill all other such vacancies arising by expiration of term.

(c) The Governor, Lieutenant Governor and Speaker of the House, respectively, may remove any member appointed by him for good cause shown and may appoint persons to fill unexpired terms of members appointed by him."

Sec. 2. G.S. 90-140 is rewritten to read as follows:

"§ 90-140. Selection of chiropractic members of board.—The Governor, Lieutenant Governor and Speaker of the House shall appoint chiropractic
members of the board for terms of three years from a list provided by the board. For each vacancy, the board must submit at least three names to the Governor, Lieutenant Governor and Speaker of the House.

The board shall establish procedures for the nomination and election of chiropractic members. These procedures shall be adopted under Article 2 of Chapter 150A of the General Statutes, and notice of the proposed procedures shall be given to all licensed chiropractors residing in North Carolina. These procedures shall not conflict with the provisions of this section. Every chiropractor with a current North Carolina license residing in this State shall be eligible to vote in all such elections, and the list of licensed chiropractors shall constitute the registration list for elections. Any decision of the board relative to the conduct of such elections may be challenged by civil action in the Wake County Superior Court. A challenge must be filed not later than 30 days after the board has rendered the decision in controversy, and all such cases shall be heard de novo.”

Sec. 3. G.S. 90-141 is rewritten to read as follows:

"§ 90-141. Organization; quorum.—The Board of Chiropractic Examiners shall elect such officers as they may deem necessary. Four members of the board shall constitute a quorum for the transaction of business."

Sec. 4. G.S. 90-143 is amended by deleting the second paragraph thereof.

Sec. 5. Article 8, Chapter 90 of the General Statutes is amended by adding a new section to read as follows:

"§ 90-143.1. Applicants licensed in other states.—If an applicant for licensure is already licensed in another state to practice chiropractic, the board shall issue a license to practice chiropractic to the applicant upon evidence that:

(1) the applicant is currently an active, competent practitioner and is in good standing; and

(2) the applicant has practiced at least one year out of the three years immediately preceding his or her application; and

(3) the applicant currently holds a valid license in another state; and

(4) no disciplinary proceeding or unresolved complaint is pending anywhere at the time a license is to be issued by this State; and

(5) the licensure requirements in the other state are equivalent to or higher than those required by this State.

Any license issued upon the application of any chiropractor from any other state shall be subject to all of the provisions of this Article with reference to the license issued by the State Board of Chiropractic Examiners upon examination, and the rights and privileges to practice the profession of chiropractic under any license so issued shall be subject to the same duties, obligations, restrictions, and conditions as imposed by this Article on chiropractors originally examined by the State Board of Chiropractic Examiners."

Sec. 6. G.S. 90-145 is amended by changing the title thereof to read "§ 90-145. Grant of license". G.S. 90-145 is further amended by deleting the second sentence thereof.

Sec. 7. G.S. 90-154 is rewritten to read as follows:

"§ 90-154. Grounds for professional discipline.—(a) The Board of Chiropractic Examiners may impose any of the following sanctions, singly or in combination, when it finds that a practitioner or applicant is guilty of any offense described in subsection (b):

(1) permanently revoke a license to practice chiropractic;
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(2) suspend a license to practice chiropractic;
(3) refuse to grant a license;
(4) censure a practitioner;
(5) issue a letter of reprimand;
(6) place a practitioner on probationary status and require him to report regularly to the board upon the matters which are the basis of probation.

(b) The following are grounds for disciplinary action by the board under subsection (a):

(1) advertising services in a false or misleading manner;
(2) conviction of a felony or of a crime involving moral turpitude;
(3) addiction or severe dependency upon alcohol or other drugs which endangers the public by impairing a chiropractor's ability to practice safely;
(4) unethical conduct in the practice of the profession as defined by rule or regulation of the board;
(5) negligence or incompetence in the practice of chiropractic;
(6) committing an act or acts constituting malpractice in the practice of chiropractic;
(7) rendering unacceptable care according to explicit standards adopted by the Board of Chiropractic Examiners;
(8) engaging in a course of lewd or immoral conduct in connection with the delivery of chiropractic services to a patient."

Sec. 8. G.S. 90-156 is amended on the third line by deleting the words "railroad fare and hotel bills" and substituting therefor the words "transportation and lodging."

Sec. 9. G.S. 143-34.12 is amended by deleting line 7 which reads as follows:

"Chapter 90, Article 8, entitled 'Chiropractic'."

Sec. 10. This act is effective upon ratification, except that Sections 1 and 2 shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 2nd day of July, 1981.

H. B. 300	CHAPTER 767
AN ACT TO AMEND CHAPTER 90, ARTICLE 11, OF THE GENERAL STATUTES RELATING TO VETERINARIANS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-182 is rewritten to read as follows:

"§ 90-182. North Carolina Veterinary Medical Board; appointment, membership, organization.—(a) In order to properly regulate the practice of veterinary medicine and surgery, there is established a board to be known as the North Carolina Veterinary Medical Board which shall consist of seven members.

Four members shall be appointed by the Governor. Three of these members shall have been legal residents of and licensed to practice veterinary medicine in this State for not less than five years preceding their appointment. The other member shall not be licensed or registered under the Article and shall represent the interest of the public at large.
The Lieutenant Governor and the Speaker of the House shall each appoint to the board one member who shall have been a resident of and licensed to practice veterinary medicine in this State for not less than five years preceding his appointment.

In addition to the six members appointed as provided above, the Commissioner of Agriculture shall biennially appoint to the board the State Veterinarian or licensed veterinarian from a staff of a North Carolina department or institution. This member shall have been a legal resident of and licensed to practice veterinary medicine in North Carolina for not less than five years preceding his appointment.

Every member shall, within 30 days after notice of appointment, appear before any person authorized to administer the oath of office and take an oath to faithfully discharge the duties of his office.

(b) No person who has been appointed to the board shall continue his membership on the board if during the term of his appointment he shall:

(1) transfer his legal residence to another state; or
(2) own or be employed by any wholesale or jobbing house dealing in supplies, equipment, or instruments used or useful in the practice of veterinary medicine; or
(3) have his license to practice veterinary medicine rescinded for any of the causes listed in G.S. 90-187.8.

(c) All members serving on the board on June 30, 1981, shall complete their respective terms. The Governor shall appoint the public member not later than July 1, 1981. No member appointed to the board by the Governor, Lieutenant Governor or Speaker of the House of Representatives on or after July 1, 1981, shall serve more than two complete consecutive five-year terms, except that each member shall serve until his successor is appointed and qualifies.

(d) The appointing authority may remove his appointee for the reasons specified in subsection (b) or for any good cause shown and may appoint members to fill unexpired terms.”

Sec. 2. G.S. 90-184 is amended on line 6 by deleting the brackets surrounding the word “of” as it appears between the words “expenses” and “the”.

Sec. 3. G.S. 90-185(2) is amended on line 3 by deleting the brackets surrounding the letter “A” as it appears at the end of that line.

G.S. 90-185 is further amended in subsection (4) by rewriting line 2 to read as follows:

“special—necessary to effectuate the provisions of this Article and to”.

G.S. 90-185 is further amended in subsection (6) on line 2 by deleting the word “provision” and substituting therefor the word “provisions”.

Sec. 4. G.S. 90-186(3) is amended on line 8 by deleting the period following the word “registration” and substituting therefor a comma and the following language immediately thereafter.

“provided that any suspension or revocation of a special registration issued under this section shall be conducted under the provisions of Chapter 150A of the General Statutes.”

Sec. 5. G.S. 90-187(b) is amended on line 1 by deleting the words and punctuation, “18 years of age or more,”.

Sec. 6. G.S. 90-187(d) is amended on line 4 by deleting the word “may” and substituting therefor the word “shall”.

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Sec. 7. G.S. 90-187.3 is rewritten to read as follows:

"§ 90-187.3. Applicants licensed in other states.—(a) The board shall issue a license without written examination to applicants already licensed in another state provided the applicant presents evidence satisfactory to the board that:
(1) the applicant is currently an active, competent practitioner in good standing; and
(2) the applicant has practiced at least three of the five years immediately preceding his application; and
(3) the applicant currently holds a valid license in another state; and
(4) there is no disciplinary proceeding or unresolved complaint pending against the applicant at the time a license is to be issued by this State; and
(5) the licensure requirements in the other state are substantially equivalent to those required by this State.
(b) The board may at its discretion issue a license without written examination to applicants who meet the requirements of G.S. 90-187(c).
(c) The board may at its discretion orally or practically examine any person qualifying for licensure under this section."

Sec. 8. G.S. 90-187.6 is amended on line 1 by changing the title of the section to "Veterinary assistants".

Sec. 9. G.S. 90-187.6 is further amended by rewriting line 1 of subsection (b) to read as follows:

"(b) The services of a technician, intern, preceptee, or other veterinary employee shall be limited to services";
and by rewriting the last sentence of subsection (b) to read as follows:

"by this Article and by rules of the board."

Sec. 10. G.S. 90-187.6 is further amended by rewriting subsection (c) to read as follows:

"(c) An employee under the supervision of a licensed veterinarian may perform such duties as are required in the physical care of animals and in carrying out medical orders as prescribed by the licensed veterinarian, requiring an understanding of animal science but not requiring the professional services as set forth in G.S. 90-181(6)a. In addition, a registered technician may assist licensed veterinarians in diagnosis, laboratory analysis, anesthesia, and surgical procedures. Neither the employee nor the technician may perform any act producing an irreversible change in the animal."

Sec. 11. G.S. 90-187.6 is further amended by adding a new sentence at the end of line 42 to read as follows:

"Any nonregistered veterinary employee employed under subsection (c) who practices veterinary medicine except as provided under that subsection shall be guilty of a misdemeanor and subject to the penalties prescribed in G.S. 90-187.12."

G.S. 90-187.6 is further amended on line 43 by deleting the word "or" as it appears at the end of that line and by substituting a comma therefor, and on line 44 by inserting between the word "preceptee" and "to" the words "or other employee".

Sec. 12. G.S. 90-187.8 is amended on line 3 by deleting the brackets surrounding the letter "A" as it appears between the number "150" and word "of".
G.S. 90-187.8 is further amended in subsection (4) by deleting the word "is" as it appears at the end of line 1 and substituting therefor the word and punctuation "deceptive," and by deleting lines 2 and 3 in their entirety.

G.S. 90-187.8 is further amended in subsection (10) by adding a comma at the end of line 1.

Sec. 13. G.S. 187.8(13) is rewritten to read as follows:

"(13) Revocation of a license to practice veterinary medicine by another state, territory or district of the United States only if the grounds for revocation in the other jurisdiction would also result in revocation of the practitioner's license in this State."

Sec. 14. Article 11 of Chapter 90 of the General Statutes is amended by adding a new section to the end thereof to read as follows:

"§ 90-187.13. Injunctions.—The board may appear in its own name in the superior courts in an action for injunctive relief to prevent violation of this Article and the superior courts shall have power to grant such injunctions regardless of whether criminal prosecution has been or may be instituted as a result of such violations. Actions under this section shall be commenced in the judicial district in which the respondent resides or has his principal place of business or in which the alleged acts occurred."

Sec. 15. G.S. 143-34.12 is amended by deleting line 9 thereof which reads as follows:

"Chapter 90, Article 11, entitled 'Veterinarians'."

Sec. 16. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of July, 1981.

H. B. 971

CHAPTER 768

AN ACT TO ALLOW COUNTIES TO TREAT SEVERAL STREETS WITHIN THE SAME SUBDIVISION AS A UNIT IN CONSIDERING ASSESSMENTS FOR IMPROVEMENTS OF SUBDIVISION STREETS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-205 is amended by adding the following after the last sentence of the first paragraph of subsection (c): "A county may treat as a unit and consider as one street two or more connecting State-maintained subdivision or residential streets in a petition filed under this subsection calling for the improvement of subdivision or residential streets subject to property owner sharing in the cost of improvement under policies of the Department of Transportation."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of July, 1981.
H. B. 1159

CHAPTER 769

AN ACT TO DESIGNATE THE FOURTH WEEK IN SEPTEMBER AS INDIAN SOLIDARITY WEEK.

The General Assembly of North Carolina enacts:

Section 1. Chapter 103 is amended by adding a new section G.S. 103-8 to read:

"§ 103-8. Indian Solidarity Week.—The last full week in September of each year is designated as Indian Solidarity Week in North Carolina."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of July, 1981.

H. B. 1195

CHAPTER 770

AN ACT TO ALLOW A MEMBER OF A COUNTY SOCIAL SERVICES BOARD WHO IS A COUNTY COMMISSIONER TO SERVE WITHOUT LIMITATION AS TO TERMS ON THE COUNTY SOCIAL SERVICES BOARD.

The General Assembly of North Carolina enacts:

Section 1. G.S. 108-10 and G.S. 108A-4, as enacted by Chapter 275, Session Laws of 1981, are each amended by adding the following new sentences at the end:

"Notwithstanding the previous sentence, the limitation on consecutive terms does not apply if the member of the social services board was a member of the board of county commissioners at any time during the first two consecutive terms, and is a member of the board of county commissioners at the time of reappointment."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of July, 1981.

H. B. 1201

CHAPTER 771

AN ACT TO PROVIDE FOR THE SEVERABILITY OF THE PROVISIONS OF REDISTRICTING ACTS OF THE GENERAL ASSEMBLY.

The General Assembly of North Carolina enacts:

Section 1. Article 1 of General Statutes Chapter 120 is amended by adding a new section to read:

"§ 120-2.1. Severability of Senate and House apportionment acts.—If any provision of any act of the General Assembly that apportions Senate or House districts is held invalid by any court of competent jurisdiction, the invalidity shall not affect other provisions that can be given effect without the invalid provision; and to this end the provisions of any said act are severable."

Sec. 2. Article 17 of General Statutes Chapter 163 is amended by adding a new section to read:

"§ 163-201.1. Severability of congressional apportionment acts.—If any provision of any act of the General Assembly that apportions congressional districts is held invalid by any court of competent jurisdiction, the invalidity
shall not affect other provisions that can be given effect without the invalid provision; and to this end the provisions of any said act are severable."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of July, 1981.

H. B. 1246

CHAPTER 772

AN ACT TO AMEND THE STATUTES CONCERNING THE LEGISLATIVE SERVICES COMMISSION AND OTHER LEGISLATIVE ACTIVITIES TO TAKE INTO ACCOUNT LEGISLATIVE USE OF THE NEW STATE OFFICE BUILDING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 120-30.14 is amended by rewriting the first sentence to read: "The first meeting of the Legislative Research Commission shall be held at the call of the President Pro Tempore of the Senate in the State Legislative Building or in another building designated by the Legislative Services Commission."

Sec. 2. G.S. 120-30.18 is amended by rewriting the first sentence to read: "The facilities of the State Legislative Building, and any other State office building used by the General Assembly, shall be available to the Commission for its work."

Sec. 3. G.S. 120-32.1(a) is rewritten to read:

"(a) The Legislative Services Commission shall determine policy governing the use of the State Legislative Building and the State office building located at the northeast corner of Lane and Salisbury streets. The Commission shall allocate space within those buildings and the grounds encompassed by Jones, Wilmington, Lane and Salisbury streets; be responsible for the maintenance, security, control and care of those buildings; and promulgate rules and regulations governing the use of those buildings and their facilities. The Commission may delegate the actual work of maintenance of those buildings to the Department of Administration, which shall provide such maintenance services as may be delegated, subject to the direction of the Commission."

Sec. 4. G.S. 120-32.1(b) is amended in the third line of that subsection by adding between the comma following the word "Building" and "and" the following: "and in the State office building located at the northeast corner of Lane and Salisbury streets,"

Sec. 5. G.S. 120-32.2 is amended by adding a new paragraph to read:

"The jurisdiction of the State Legislative Building security force shall also include the State office building located at the northeast corner of Lane and Salisbury streets and the area between the outer walls of that building and the near curbline of those sections of Lane and Salisbury streets that border the land on which the building is located."

Sec. 6. G.S. 120-32.3 is amended by rewriting the oath to read:

"I, __________, do solemnly swear (or affirm) that I will well and truly execute the duties of special policeman in the State Legislative Building and other buildings and grounds subject to the jurisdiction of the Legislative Services Commission, according to the best of my skill and ability and according to law; and that I will use my best endeavors to enforce all rules and regulations of the
Legislative Services Commission concerning use of those buildings and grounds.

'Sworn and subscribed to before me, this the ____ day of ________, A.D

Sec. 7. G.S. 120-36.5 is rewritten to read:

"§120-36.5 Office space.—The Fiscal Research Division shall be provided with suitable office space and equipment in the State Legislative Building or in another building designated by the Legislative Services Commission."

Sec. 8. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 2nd day of July, 1981.

H. B. 1266

CHAPTER 773

AN ACT TO AMEND ARTICLE 3 OF GENERAL STATUTES CHAPTER 58 TO PROVIDE RECIPROCITY FOR LICENSED INSURANCE AGENTS.

The General Assembly of North Carolina enacts:

Section 1. Article 3 of General Statutes Chapter 58 is amended by adding a new section to read:

"§58-43.1. Reciprocity for agents.—Notwithstanding the provisions of G.S. 58-41, 58-43, 58-44, 58-44.1, or 58-44.2, to the extent that other states that provide for the licensing and regulation of and payment of commissions to insurance agents or brokers waive restrictions on the basis of reciprocity with respect to North Carolina insurance agents holding nonresident licenses as insurance agents or brokers in such states, all such restrictions on nonresident insurance agents or brokers from such states holding North Carolina nonresident licenses shall be and hereby are waived."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of July, 1981.

H. B. 1270

CHAPTER 774

AN ACT TO MAKE THE NORTH CAROLINA EMPLOYMENT SECURITY LAW CONSISTENT WITH THE FEDERAL SOCIAL SECURITY ACT AND CHAPTERS 21 AND 24 OF THE INTERNAL REVENUE CODE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 96-8(6)k is amended by adding the following subsection 16:

"16. Notwithstanding the provisions of G.S. 96-8(6)l.3. and G.S. 96-8(6)k.6., service performed by an individual on a boat engaged in catching fish or other forms of aquatic animal life under an arrangement with the owner or operator of such boat pursuant to which:

(A) such individual does not receive any cash remuneration (other than as provided in subparagraph (B)),

(B) such individual receives a share of the boat's (or the boats' in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal life or a share of the proceeds from the sale of such catch, and
(C) the amount of such individual's share depends on the amount of the boat's (or the boats' in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal life, but only if the operating crew of such boat (or each boat from which the individual receives a share in the case of a fishing operation involving more than one boat) is normally made up of fewer than 10 individuals. In order to preserve the State's right to collect State unemployment taxes for which a credit against federal unemployment taxes may be taken for contributions paid into a State unemployment insurance fund, this subsection 16 shall not apply, with respect to any individual, to service during any period for which an assessment for federal unemployment taxes is made by the Internal Revenue Service pursuant to the Federal Unemployment Tax Act which assessment becomes a final determination (as defined by Section 1313 of the Internal Revenue Code of 1954 as amended)."

Sec. 2. This amendment made by Section 1 of this act shall be effective as to all services rendered after December 31, 1954; provided, however, that the amendment made by Section 1 of this act shall not apply with respect to such services performed by such individual (and the share of the catch, or proceeds therefrom received by him for such services) if and only for so long as the owner or operator of any boat treated a share of the boat's catch of fish or other aquatic animal life (or a share of the proceeds therefrom) received by an individual after December 31, 1954, and before the date of the enactment of this act for services performed by an individual after December 31, 1954, on such boat, as being subject to the unemployment tax under the Federal Unemployment Tax Act, or the Employment Security Law of North Carolina. This act shall not be construed to entitle any person to a refund.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of July, 1981.

H. B. 1283

CHAPTER 775

AN ACT TO AMEND THE SCHOOL BUDGET AND FISCAL CONTROL ACT AS IT APPLIES TO PENDER COUNTY CONCERNING APPROVAL OF EXPENDITURES SOME OR ALL OF WHICH ARE TO BE PAID IN ENSUING FISCAL YEARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-100.24 and G.S. 115C-441 as enacted by Chapter 423, Session Laws of 1981, are each amended by adding a new subsection to read:

"(c1) Continuing Contracts for Current Expense and Capital Outlay. An administrative unit may enter into a contract for current expense or capital outlay expenditures, some portion or all of which is to be performed or paid or both in ensuing fiscal years, without the budget resolution including an appropriation for the entire obligation, provided:

(i) the budget resolution includes an appropriation authorizing the current fiscal year's portion of the obligation;

(ii) an unencumbered balance remains in the appropriation sufficient to pay in the current fiscal year the sums obligated by the transaction for the current fiscal year; and
(iii) contracts for capital outlay expenditures are approved by a resolution adopted by the board of county commissioners, which resolution when adopted shall bind the board of county commissioners to appropriate sufficient funds in ensuing fiscal years to meet the amounts to be paid under the contract in those years."

Sec. 2. All continuing contracts heretofore entered into by administrative units are ratified and confirmed and deemed to be in compliance with existing law. This provision shall not affect pending litigation.

Sec. 3. This act applies to Pender County only.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of July, 1981.

H. B. 1324

CHAPTER 776

AN ACT TO PROVIDE FOR INCLUSION IN THE NORTH CAROLINA MOTOR VEHICLE REINSURANCE FACILITY OF INSURANCE LIMITS REQUIRED BY THE UNITED STATES DEPARTMENT OF TRANSPORTATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-248.26(7) is amended by adding the following:

"With respect to motor carriers who are subject to the financial responsibility requirements established under the Motor Carrier Act of 1980, the term, 'motor vehicle insurance' includes coverage with respect to environmental restoration. As used in this subsection the term, 'environmental restoration' means restitution for the loss, damage, or destruction of natural resources arising out of the accidental discharge, dispersal, release, or escape into or upon the land, atmosphere, water course, or body of water of any commodity transported by a motor carrier. Environmental restoration includes the cost of removal and the cost of necessary measures taken to minimize or mitigate damage or potential for damage to human health, the natural environment, fish, shellfish, and wildlife."

Sec. 2. G.S. 58-248.33(b)(1)e. is amended by deleting the last period and by adding the following:

"or who are subject to financial responsibility requirements established under the Federal Motor Carrier Act of 1980."

Sec. 3. G.S. 58-248.33(b)(2) is amended in lines 14 and 15 by deleting the following: "Any other motor vehicle insurance required by law: in twice the amount of coverage limits required by law."

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of July, 1981.
CHAPTER 777

AN ACT TO REPEAL THE NOTICE REQUIREMENTS AND AMEND THE STATUTES OF LIMITATIONS FOR CLAIMS AGAINST LOCAL UNITS OF GOVERNMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1-539.15 is repealed.

Sec. 2. G.S. Chapter 1, Article 43C is amended by adding a new section to read:

"§ 1-539.16. Notice of claims against local units of government.—No local act, including city charters, shall require a notice to a local unit of government of any claim against it and prohibit suit against the local unit if notice is not given or limit the period during which an action may be brought on such a claim after notice has been given."

Sec. 3. G.S. 1-53(1) is rewritten to read:

"(1) An action against a local unit of government upon a contract, obligation or liability arising out of a contract, express or implied. This subdivision shall not apply to actions based upon bonds, notes and interest coupons or when a different period of limitation is prescribed by this Article."

Sec. 4. G.S. 1-52(1) is amended by adding after the word "sections" the words "or in G.S. 1-53(1)".

Sec. 5. This act is effective upon ratification, but shall not apply to pending claims.

In the General Assembly read three times and ratified, this the 2nd day of July, 1981.

CHAPTER 778

AN ACT CREATING THE ASHEVILLE-BUNCOMBE CHARTER COMMISSION AND PROVIDING FOR AN ELECTION ON THE CONSOLIDATION OF THE GOVERNMENTS OF THE MUNICIPALITIES WITHIN AND THE COUNTY OF BUNCOMBE.

The General Assembly of North Carolina enacts:

Section 1. Charter Commission Created and Empowered. There is hereby created The Asheville-Buncombe Charter Commission. The Commission shall:

(1) Study possible consolidation, separation, addition, removal, or other revisions of the local governmental structures, functions and operations in Buncombe County, and determine what tax savings could be made and what efficiencies could be gained through reorganization or reallocation of such structures, functions, and operations.

(2) Prepare a report setting forth a general plan of consolidated local government for Buncombe County.

(3) Prepare a proposed charter for the Consolidated Government for Asheville and Buncombe County in accordance with the provisions of the Consolidated City/County Act of 1973 (Chapter 160B of the General Statutes) that provides for the reorganization and reallocation of local government powers, duties and responsibilities into a single government for Buncombe County.
(4) Submit the proposed charter to the voters of the City of Asheville, Buncombe County and the other municipalities in Buncombe County in a referendum, as provided in Section 11 of this act.

Sec. 2. Charter Provisions. (a) The proposed charter shall be so devised that the voters of any of the towns of Biltmore Forest, Black Mountain, Montreat, Weaverville and Woodfin may elect to become an integral part of this new government at a future date.

(b) The proposed charter shall provide for the continuation of all local government ordinances, resolutions and policies by the proposed consolidated government without loss of rights or benefits by any party. The proposed charter shall also include provisions to repeal or modify all local ordinances, resolutions and policies that are no longer applicable, or that may be inconsistent with or in conflict with the form and structure of the proposed consolidated government and to prepare drafts of any legislation amending the North Carolina Constitution, the General Statutes and local or special acts of the General Assembly as may be necessary.

Sec. 3. Membership of the Commission. (a) The Asheville-Buncombe Charter Commission shall be composed of 21 voting members. No elected official or local government employee may serve as a voting member. The chairman of the Buncombe County Board of Commissioners and the Mayor of the City of Asheville or their designees, shall serve on the Commission as ex officio members without the right of vote or to hold any office. The Commission members shall be appointed as follows:

(1) The Asheville City Council shall appoint six members.

(2) The Buncombe County Board of Commissioners shall appoint six members.

(3) The members of the General Assembly representing Buncombe County shall appoint three members.

(4) Each other municipality in Buncombe County shall appoint one member each.

(5) The Commission thus composed shall then appoint one additional member.

(b) If any appointing authority shall fail to act by September 1, 1981, to make the appointments required by subdivisions (1) through (4) of subsection (a) of this section, then the members of the General Assembly representing Buncombe County shall jointly make the appointment.

(c) Any vacancy shall be filled by the board or group making the original appointment.

Sec. 4. Organization of the Commission. (a) The Commission shall select from its membership a chairman, a vice-chairman and such other officers as it may deem necessary. The Commission shall adopt rules of procedures not inconsistent with this act.

(b) The Commission may appoint special committees to assist in carrying out its duties. Persons who are not members of the Commission may be appointed to said committees.

(c) The senior member of the North Carolina General Assembly who is a resident of Buncombe County shall call the organizational meeting of the Commission and preside until the Commission elects its chairman and vice-chairman. The organizational meeting shall be held between September 1, 1981, and September 15, 1981, in a mutually agreed-upon location.
Sec. 5. Meetings of the Commission. All meetings of the Commission shall be open to the public and the Commission shall comply with provision of Article 33C of Chapter 143 of the General Statutes (the Open Meetings Law). The Commission shall adopt a schedule of regular meetings and may hold special meetings upon reasonable notice to all members.

Sec. 6. Staff of the Commission. The Commission may contract with State and local government agencies and other institutions, persons, firms, or corporations to make special studies and to assist in its work.

Sec. 7. Financing of the Commission. The Commission shall prepare a budget to support its request for funds to carry out its work, not to exceed a total of fifty thousand dollars ($50,000). Buncombe County shall meet the Commission's expenses up to this amount. Expenditures of the Commission shall be authorized by the chairman and vice-chairman. Buncombe County shall provide accounting and treasury service to the Commission.

Sec. 8. Compensation for Commission Members. Members of the Commission shall receive no compensation for their services, but shall be reimbursed for their actual and necessary expenses incurred in the performance of their official duties.

Sec. 9. Cooperation of Local Units of Government with the Commission. All local governmental units and agencies in Buncombe County shall cooperate with the Commission by providing records, reports and information upon the Commission's request.

Sec. 10. Schedule of Work and Hearings. The Commission shall publish its preliminary recommendations regarding the proposed charter creating the Consolidated Government of Asheville and Buncombe County by April 15, 1982. The Commission shall hold at least two public hearings on these preliminary recommendations commencing in May of 1982. After making any changes deemed desirable after the public hearings, the Commission shall complete the final proposed charter and file a copy with each participating governmental board by September 1, 1982.

Sec. 11. Charter Referendum. (a) After completing the final version of the charter pursuant to Section 10, of this act, the Commission shall submit the proposed charter to the voters of Buncombe County in a countywide referendum on November 2, 1982. The Board of Elections of Buncombe County shall conduct the referendum and the Buncombe County Board of Commissioners shall appropriate funds to meet all expenses of the referendum.

(b) The form of the ballot shall be substantially as follows:

"☐ FOR charter proposed by Asheville-Buncombe Charter Commission.  
☐ AGAINST charter proposed by Asheville-Buncombe Charter Commission."

(c) Approval of the charter will require an affirmative majority of the voters voting in the election in both Buncombe County (excluding the corporate limits of the City of Asheville) and the City of Asheville, tallied separately.

(d) In addition to the referendum question outlined in subsection (b) of this section, the voters of the towns of Biltmore Forest, Black Mountain, Montreat, Weaverville and Woodfin shall vote on the additional question as follows:

"☐ FOR inclusion of the Town of _____________ in the consolidated government described in the charter proposed by the Asheville-Buncombe Charter Commission.

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□ AGAINST inclusion of the Town of _____________ in the consolidated
government described in the Charter proposed by the Asheville-
Buncombe Charter Commission."

An affirmative majority of those voting in each town in that election shall be
necessary for the inclusion of the town in the new government.

Sec. 12. Effective Date of New Government. If the charter is approved
pursuant to the provisions of Section 11 of this act, the new government will
become effective on December 3, 1984.

Sec. 13. Act Ceased To Be in Effect. If the voters of Buncombe County
vote against the charter pursuant to the provisions of Section 11 of this act, this
act shall cease to be in effect on the date of the certification of the results of the
referendum by the Board of Elections.

Sec. 14. Severability. If any provision of this act is held invalid, such
invalidity shall not affect other provisions of the act which can be given effect
without the invalid provision, and to this end the provisions of this act are
declared to be severable.

Sec. 15. Repealer. All laws and clauses of laws public and local in
conflict with this act are hereby repealed.

Sec. 16. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of
July, 1981.

S. B. 715

CHAPTER 779

AN ACT TO REPEAL AN ACT CONCERNING BUDGET ADOPTION AND
FINANCING OF THE Buncombe County BOARD OF TAX
SUPERVISION, SO AS TO RESTORE THE PRIOR LOCAL LAW.

The General Assembly of North Carolina enacts:

Section 1. Chapter 483, Session Laws of 1981 is repealed.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of
July, 1981.

S. B. 40

CHAPTER 780

AN ACT TO PROVIDE PUNISHMENTS FOR ASSAULTS UPON
HANDICAPPED PERSONS.

The General Assembly of North Carolina enacts:

Section 1. A new section is added to Chapter 14 of the General Statutes
to read:

"§ 14-32.1. Assaults on handicapped persons; punishments.—(a) For purposes
of this section, a ‘handicapped person’ is a person who has:
1. a physical or mental disability, such as decreased use of arms or legs,
   blindness, deafness, mental retardation or mental illness; or
2. infirmity
which would substantially impair that person's ability to defend himself.
(b) Any person who assaults a handicapped person with a deadly weapon with
intent to kill and inflicts serious injury is guilty of a Class F felony.
(c) Any person who assaults a handicapped person with a deadly weapon and
inflicts serious injury is guilty of a Class G felony.

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(d) Any person who assaults a handicapped person with a deadly weapon with intent to kill is guilty of a Class G felony.

(e) Unless his conduct is covered under some other provision of law providing greater punishment, any person who commits any aggravated assault or assault and battery on a handicapped person is guilty of a Class I felony. A person commits an aggravated assault or assault and battery upon a handicapped person if, in the course of the assault or assault and battery, that person:

(1) Uses a deadly weapon or other means of force likely to inflict serious injury or serious damage to a handicapped person; or

(2) Inflicts serious injury or serious damage to a handicapped person; or

(3) Intends to kill a handicapped person.

(f) Any person who commits a simple assault or battery upon a handicapped person is guilty of a misdemeanor punishable by a fine, imprisonment for not more than one year, or both.”

Sec. 2. This act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 2nd day of July, 1981.

S. B. 321

CHAPTER 781

AN ACT TO ALLOW PERSONS TO CHARGE AND COLLECT PROCESSING FEES FOR RETURNED CHECKS AND TO INCREASE THE PROCESSING COSTS FOR RETURNED CHECKS ALLOWABLE IN COURT ACTIONS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 25, Article 3, of the General Statutes is amended by adding a new section to read as follows:

“§ 25-3-512. Collection of processing fee for returned checks.—A processing fee, not to exceed ten dollars ($10.00), may be charged and collected for checks on which payment has been refused by the payor bank because of insufficient funds or because the drawer did not have an account at that bank if at the time the consumer presented the check to the person, a sign:

(1) was conspicuously posted on or in the immediate vicinity of the cash register;

(2) was in plain view of anyone paying for goods or services by check;

(3) was no smaller than 8 by 11 inches; and

(4) stated the amount of the fee that would be charged for returned checks.

Where the drawer sends the check by mail for payment of the debt, and the check is dishonored and returned, the processing fee may be collected if expressly authorized by the agreement creating the debt.

If a collection agency collects or seeks to collect the sum payable of a check, the drawer is not required to pay a fee unless the fee is expressly authorized by the agreement creating the debt. If an action is brought to recover the sum payable of a check, the remedies shall be as provided in G.S. 6-21.3.”

Sec. 2. G.S. 6-21.3 is amended by deleting “five dollars ($5.00)” and inserting in lieu thereof “ten dollars ($10.00”).

Sec. 3. This act shall become effective July 1, 1981, and applies to checks written on or after this date.

In the General Assembly read three times and ratified, this the 2nd day of July, 1981.

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S. B. 397  

CHAPTER 782

AN ACT TO PROVIDE CORNEAL TISSUE FOR TRANSPLANT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 130 of the General Statutes is amended by adding a new Article, Article 21A, to read:

"ARTICLE 21A.

"Corneal Tissue Removal.

"§130-202.3. Authorization of medical examiner, conditions.—A medical examiner or a regional pathologist may provide corneal tissue from a decedent under his jurisdiction to the North Carolina Eye and Human Tissue Bank or other donee specified in G.S. 90-220.3 under the following conditions:

(1) Consent from next of kin is obtained in accordance with G.S. 90-220.2; or

(2) A reasonable attempt to determine next of kin has failed, the medical examiner or regional pathologist believes that there are no next of kin to be contacted for consent, and no objection by the next of kin is known to the medical examiner or regional pathologist; and

(3) The removal of the corneal tissue for transplant will not interfere with any subsequent course of investigation or autopsy or alter the post mortem facial appearance.

"§130-202.4. Immunity from liability.—Neither the medical examiner, the regional pathologist, nor the donee shall be liable in any civil action brought by the next of kin on the contention that authorization of next of kin was required to remove the corneal tissue, provided that the medical examiner or regional pathologist has made reasonable efforts to determine and locate next of kin prior to the donation."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of July, 1981.

S. B. 560  

CHAPTER 783

AN ACT TO AMEND ARTICLE 1 OF CHAPTER 87 OF THE GENERAL STATUTES AS THE SAME RELATES TO BUILDERS OF RESIDENTIAL HOUSING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 87-1 as the same appears in the 1981 Replacement Volume 2C of the General Statutes is amended to read as follows:

"§87-1. ‘General contractor’ defined; exceptions.—For the purpose of this Article any person or firm or corporation who for a fixed price, commission, fee or wage, undertakes to bid upon or to construct or who undertakes to superintend or manage, on his own behalf or for any person, firm or corporation that is not licensed as a general contractor pursuant to this Article, the construction of any building, highway, public utilities, grading or any improvement or structure where the cost of the undertaking is thirty thousand dollars ($30,000) or more, shall be deemed to be a ‘general contractor’ engaged in the business of general contracting in the State of North Carolina.

This section shall not apply to persons or firms or corporations furnishing or erecting industrial equipment, power plant equipment, radial brick chimneys, and monuments.
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This section shall not apply to any person or firm or corporation who constructs a building on land owned by that person, firm or corporation when such building is intended for use by that person, firm or corporation after completion."

Sec. 2. G.S. 87-14 as the same appears in the 1981 Replacement Volume 2C of the General Statutes is amended by adding the phrase "or another person contracting to superintend or manage the construction" immediately following the word "he" and immediately preceding the word "is" on line 7 of the present section.

Sec. 3. Severability. If any provision of this act or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provision of application, and to this end the provisions of this act are severable.

Sec. 4. This act is effective January 1, 1982.

In the General Assembly read three times and ratified, this the 2nd day of July, 1981.

S. B. 569   CHAPTER 784

AN ACT CREATING THE NORTH CAROLINA EDUCATIONAL FACILITIES FINANCE AGENCY AND AUTHORIZING SAID AGENCY TO FINANCE, REFINANCE, CONSTRUCT, PROVIDE AND ACQUIRE AND OTHERWISE UNDERTAKE HIGHER EDUCATIONAL FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. Short Title. This Chapter shall be known, and may be cited, as the "Higher Educational Facilities Finance Act."

Sec. 2. Legislative Findings. It is hereby declared that for the benefit of the people of the State of North Carolina, the increase of their commerce, welfare and prosperity and the improvement of their health and living conditions it is essential that they be given the fullest opportunity to learn and to develop their intellectual capacities; that it is essential for institutions of higher education within the State to be able to construct and renovate facilities to assist its citizens in achieving the fullest development of their intellectual capacities; and that it is the purpose of this Chapter to provide a measure of assistance and an alternative method to enable private institutions of higher education in the State to provide the facilities and the structures which are needed to accomplish the purposes of this Chapter, all to the public benefit and good, to the extent and in the manner provided herein.

Sec. 3. Definitions. As used or referred to in this Chapter, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise:

(1) "Agency" means the North Carolina Educational Facilities Finance Agency created by this Chapter, or, should said agency be abolished or otherwise divested of its functions under this Chapter, the public body succeeding it in its principal functions, or upon which are conferred by law the rights, powers and duties given by this Chapter to the agency.

(2) "Cost", as applied to any project or any portion thereof financed under the provisions of this Chapter, means all or any part of the cost of construction,
acquisition, alteration, enlargement, reconstruction and remodeling of a project, including all lands, structures, real or personal property, rights, rights-of-way, franchises, easements and interests acquired or used for or in connection with a project, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to and during construction and, if deemed advisable by the agency, for a period not exceeding two years after the estimated date of completion of construction, the cost of engineering and architectural surveys, plans and specifications, the cost of consulting and legal services and other expenses necessary or incident to determining the feasibility or practicability of constructing or equipping a project, the cost of administrative and other expenses necessary or incident to the construction or acquisition of a project and the financing of the construction or acquisition thereof, including reasonable provision for working capital and a reserve for debt service, and the cost of reimbursing any participating institution for higher education for any payments made for any cost described above or the refinancing of any cost described above, including any evidence of indebtedness incurred to finance such cost; provided, however, that no payment shall be reimbursed or any cost or indebtedness be refinanced if such payment was made or such cost or indebtedness was incurred earlier than five years prior to the effective date of this Chapter.

(3) "Project" means any one or more buildings, structures, improvements, additions, extensions, enlargements or other facilities for use primarily as a dormitory or other housing facility, including housing facilities for student nurses, a dining hall and other food preparation and food service facilities, student union, administration building, academic building, library, laboratory, research facility, classroom, athletic facility, health care facility, laundry facility, and maintenance, storage or utility facility and other structures or facilities related thereto or required or useful for the instruction of students or the conducting of research or the operation of an institution for higher education, including parking and other facilities or structures essential or convenient for the orderly conduct of such institution for higher education, or any combination of the foregoing, and shall also include landscaping, site preparation, furniture, equipment and machinery and other similar items necessary or convenient for the operation of an institution for higher education or a particular facility, building or structure thereof in the manner for which its use is intended but shall not include such items as books, fuel, supplies or other items the costs of which are customarily deemed to result in a current operating charge, and shall not include any facility used or to be used for sectarian instruction or as a place of religious worship nor any facility which is used or to be used primarily in connection with any part of the program of a school or department of divinity for any religious denomination.

(4) "Bonds" or "notes" means the revenue bonds or bond anticipation notes, respectively, authorized to be issued by the agency under this Chapter, including revenue refunding bonds, notwithstanding that the same may be secured by a deed of trust or the full faith and credit of a participating institution for higher education or any other lawfully pledged security of a participating institution for higher education.
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(5) "Institution for higher education" means a nonprofit private educational institution within the State of North Carolina authorized by law to provide a program of education beyond the high school level.

(6) "Participating institution for higher education" means an institution for higher education which, pursuant to the provisions of this Chapter, undertakes the financing, refinancing, acquiring, constructing, equipping, providing, owning, repairing, maintaining, extending, improving, rehabilitating, renovating or furnishing of a project or undertakes the refunding or refinancing of obligations or of a deed of trust or a mortgage or of advances as provided in this Chapter.

(7) "State" means the State of North Carolina.

Sec. 4. Educational Facilities Finance Agency. (a) There is hereby created a body politic and corporate to be known as "North Carolina Educational Facilities Finance Agency" which shall be constituted a public agency and an instrumentality of the State for the performance of essential public functions. The agency shall be governed by a board of directors composed of seven members. Two of the members of said board shall be the State Treasurer and the State Auditor, both of whom shall serve ex officio. The remaining directors of the agency shall be residents of the State and shall not hold other public office. The President of the Senate shall appoint one director, the Speaker of the House shall appoint one director, and the Governor shall appoint three of the directors of the agency. The five appointive directors of the agency shall be appointed for staggered four-year terms, two being appointed initially for one year by the President of the Senate and the Speaker of the House, respectively, and one for two years, one for three years and one for four years, respectively, as designated by the Governor, and each director shall continue in office until his successor shall be duly appointed and qualified, except that any person appointed to fill a vacancy shall serve only for the unexpired term. Any vacancy in a position held by an appointive member shall be filled by a new appointment made by the officer who originally made such appointment. Any member of the board of directors shall be eligible for reappointment. Each appointive member of the board of directors may be removed by the Governor for misfeasance, malfeasance or neglect of duty after reasonable notice and a public hearing, unless the same are in writing expressly waived. Each appointive member of the board of directors before entering upon his duties shall take an oath of office to administer the duties of his office faithfully and impartially and a record of such oath shall be filed in the office of the Secretary of State. The Governor shall designate from among the members of the board of directors a chairman and a vice-chairman. The terms of the chairman and vice-chairman shall extend to the earlier of either two years or the date of expiration of their then current terms as members of the board of directors of the agency. The board of directors shall elect and appoint and prescribe the duties of a secretary-treasurer and such other officers as it shall deem necessary or advisable, which officers need not be members of the board of directors.

(b) No part of the revenues or assets of the agency shall inure to the benefit of or be distributable to its members or officers or other private persons. The members of the agency shall receive no compensation for their services but shall be entitled to receive, for attendance at meetings of the agency or any committee thereof and for other services for the agency, reimbursement for

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such actual expenses as may be incurred for travel and subsistence in the performance of official duties and such per diem as is allowed by law for members of other State boards, commissions and committees.

(c) The secretary-treasurer of the agency shall keep a record of the proceedings of the agency and shall be custodian of all books, documents and papers filed with the agency, the minute book or journal of the agency and its official seal. He shall have authority to cause copies to be made of all minutes and other records and documents of the agency and to give certificates under the official seal of the agency to the effect that such copies are true copies, and all persons dealing with the agency may rely upon such certificates.

(d) Four members of the board of directors of the agency shall constitute a quorum and the affirmative vote of a majority of the members present at a meeting of the board of directors duly called and held shall be necessary for any action taken by the board of directors of the agency; provided, however, that the board of directors may appoint an executive committee to act on behalf of said board during the period between regular meetings of said board, and said committee shall have full power to act upon the vote of a majority of its members. No vacancy in the membership of the agency shall impair the rights of a quorum to exercise all the rights and to perform all the duties of the agency.

(e) The North Carolina Educational Facilities Finance Agency shall be contained within the Department of State Treasurer as if it had been transferred to that department by a Type II transfer as defined in G.S. 143A-6(b).

Sec. 5. General Powers. The agency shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this Chapter, including, but without limiting the generality of the foregoing, the power:

(1) To make and execute contracts and agreements necessary or incidental to the exercise of its powers and duties under this Chapter, including loan agreements and agreements of sale or leases with, mortgages and deeds of trust and conveyances to participating institutions of higher education, persons, firms, corporations, governmental agencies and others;

(2) To acquire by purchase, lease, gift or otherwise, or to obtain options for the acquisition of, any property, real or personal, improved or unimproved, including interests in land in fee or less than fee for any project, upon such terms and at such cost as shall be agreed upon by the owner and the authority;

(3) To arrange or contract with any county, city, town or other political subdivision or instrumentality of the State for the opening or closing of streets or for the furnishing of utility or other services to any project;

(4) To sell, convey, lease as lessor, mortgage, exchange, transfer, grant a deed of trust in, or otherwise dispose of, or to grant options for any such purposes with respect to, any real or personal property or interest therein;

(5) To pledge or assign any money, purchase price payments, rents, loan repayments, charges, fees or other revenues, including any federally guaranteed securities and monies received therefrom whether such securities are initially acquired by the agency or a participating institution for higher education, and any proceeds derived by the agency from sales of property, insurance, condemnation awards or other sources;
(6) To pledge or assign the revenues and receipts from any project and any loan agreement, agreement of sale or lease or the loan repayments, purchase price payments, rent and income received thereunder;

(7) To borrow money as herein provided to carry out and effectuate its corporate purposes and to issue in evidence thereof bonds and notes for the purpose of providing funds to pay all or any part of the cost of any project, to lend money to any participating institution for higher education for the acquisition of any federally guaranteed securities and to issue revenue refunding bonds;

(8) To finance, refinance, acquire, construct, equip, provide, operate, own, repair, maintain, extend, improve, rehabilitate, renovate and furnish any project and to pay all or any part of the cost thereof from the proceeds of bonds or notes or from any contribution, gift or donation or other funds available to the agency for such purpose;

(9) To fix, revise, charge and collect or cause to be fixed, revised, charged and collected purchase price payments, rents, loan repayments, fees, rates and charges for the use of, or services rendered by, any project;

(10) To employ fiscal consultants, consulting engineers, architects, attorneys, feasibility consultants, appraisers and such other consultants and employees as may be required in the judgment of the agency and to fix and pay their compensation from funds available to the agency therefor;

(11) To conduct studies and surveys respecting the need for projects and their location, financing and construction;

(12) To apply for, accept, receive and agree to and comply with the terms and conditions governing grants, loans, advances, contributions, interest subsidies and other aid with respect to any project from federal and State agencies or instrumentalities;

(13) To sue and be sued in its own name, plead and be impleaded;

(14) To acquire and enter into commitments to acquire any federally guaranteed security or federally insured mortgage note and to pledge or otherwise use any such federally guaranteed security or federally insured mortgage note in such manner as the agency deems in its best interest to secure or otherwise provide a source of repayment on any of its bonds or notes issued on behalf of any participating institution for higher education to finance or refinance the cost of any project;

(15) To make loans to any participating institution for higher education for the cost of a project in accordance with an agreement between the agency and the participating institution for higher education;

(16) To make loans to a participating institution for higher education to refund outstanding loans, obligations, deeds of trust or advances issued, made or given by such participating institutions for higher education for the cost of a project;

(17) To charge and to apportion among participating institutions for higher education its administrative costs and expenses incurred in the exercise of its powers and duties conferred by this Chapter;

(18) To adopt an official seal and alter the same at pleasure; and

(19) To do all other things necessary or convenient to carry out the purposes of this act.

Sec. 6. Criteria and Requirements. In undertaking any project pursuant to this Chapter, the agency shall be guided by and shall observe the following
criteria and requirements; provided that the determination of the agency as to its compliance with such criteria and requirements shall be final and conclusive:

(1) No project shall be sold or leased nor any loan made to any institution for higher education which is not financially responsible and capable of fulfilling its obligations, including its obligations under an agreement of sale or lease or a loan agreement to make purchase price payments, to pay rent, to make loan repayments, to operate, repair and maintain at its own expense the project and to discharge such other responsibilities as may be imposed under the agreement of sale or lease or loan agreement;

(2) Adequate provision shall be made for the payment of the principal of and the interest on the bonds and any necessary reserves therefor and for the operation, repair and maintenance of the project at the expense of the participating institution for higher education; and

(3) The public facilities, including utilities, and public services necessary for the project will be made available.

Sec. 7. Procedural Requirements. Any institution for higher education may submit to the agency, and the agency may consider, a proposal for financing a project using such forms and following such instructions as may be prescribed by the agency. Such proposal shall set forth the type and location of the project and may include other information and data available to the institution for higher education respecting the project and the extent to which such project conforms to the criteria and requirements set forth in this Chapter. The agency may request the institution for higher education to provide additional information and data respecting the project. The agency is authorized to make or cause to be made such investigations, surveys, studies, reports and reviews as in its judgment are necessary and desirable to determine the feasibility and desirability of the project, the extent to which the project will contribute to the health and welfare of the area in which it will be located, the powers, experience, background, financial condition, record of service and capability of the management of the institution for higher education, the extent to which the project otherwise conforms to the criteria and requirements of this Chapter, and such other factors as may be deemed relevant or convenient in carrying out the purposes of this Chapter.

Sec. 8. All projects shall be operated to serve and benefit the public and there shall be no discrimination against any person based on race, creed, color or national origin.

The agency may sell or lease any project to a participating institution for higher education for operation and maintenance or lend money to any participating institution for higher education in such manner as shall effectuate the purposes of this Chapter, under a loan agreement or an agreement of sale or lease in form and substance not inconsistent herewith. Any such loan agreement or agreement of sale or lease may include provisions that:

(1) The participating institution for higher education shall, at its own expense, operate, repair and maintain the project covered by such agreement;

(2) The purchase price payments to be made under the agreement of sale, the rent payable under the agreement of lease or the loan repayments under the loan agreement shall in the aggregate be not less than an amount sufficient to pay all of the interest, principal and any redemption premium on the bonds or notes issued by the agency to pay the cost of the project sold or leased thereunder or with respect to which the loan was made;
(3) The participating institution for higher education shall pay all other costs incurred by the agency in connection with the providing of the project covered by any such agreement, except such costs as may be paid out of the proceeds of bonds or notes or otherwise, including, but without limitation, insurance costs, the cost of administering the resolution authorizing the issuance of, or any trust agreement securing, such bonds or notes and the fees and expenses of trustees, paying agents, attorneys, consultants and others;

(4) The loan agreement or the agreement of sale or lease shall terminate not earlier than the date on which all such bonds and all other obligations incurred by the agency in connection with the project covered by any such agreement shall be retired or provision for such retirement shall be made; and

(5) The obligation of the participating institution for higher education to make loan repayments or purchase price payments or to pay rent shall not be subject to cancellation, termination or abatement by the participating institution for higher education until the bonds have been retired or provision has been made for such retirement.

Where the agency has acquired a possessory or ownership interest in any project which it has undertaken on behalf of a participating institution for higher education it shall promptly convey, without the payment of any consideration, all its right, title and interest in such project to such participating institution for higher education upon the retirement or provision for the retirement of all bonds or notes issued and obligations incurred by the agency in connection with such project.

Sec. 9. Construction Contracts. If the agency shall determine that the purposes of this act will be more effectively served, the agency in its discretion may award or cause to be awarded contracts for the construction of any project on behalf of a participating institution for higher education upon a negotiated basis as determined by the agency. The agency shall prescribe such bid security requirements and other procedures in connection with the award of such contracts as in its judgment shall protect the public interest. The agency may by written contract engage the services of the participating institution for higher education in the construction of such project and may provide in any such contract that such participating institution for higher education, subject to such conditions and requirements consistent with the provisions of this Chapter as shall be prescribed in such contract, may act as an agent of, or an independent contractor for, the agency for the performance of the functions described therein, including the acquisition of the site and other real property for such project, the preparation of plans, specifications and contract documents, the award of construction and other contracts upon a competitive or negotiated basis, the construction of such project directly by such participating institution for higher education, the inspection and supervision of construction, the employment of engineers, architects, builders and other contractors and the provision of money to pay the cost thereof pending reimbursement by the agency. Any such contract may provide that the agency may, out of proceeds of bonds or notes, make advances to or reimburse the participating institution for higher education for its costs incurred in the performance of such functions, and shall set forth the supporting documents required to be submitted to the agency and the reviews, examinations and audits that shall be required in connection therewith to assure compliance with the provisions of this Chapter and such contract.

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Sec. 10. Credit of State Not Pledged. Bonds or notes issued under the provisions of this Chapter shall not be secured by a pledge of the faith and credit of the State or of any political subdivision thereof or be deemed to create an indebtedness of the State, or of any such political subdivision thereof, requiring any voter approval, but shall be payable solely from the revenues and other funds provided therefor. Each bond or note issued under this Chapter shall contain on the face thereof a statement to the effect that the agency shall not be obligated to pay the same nor the interest thereon except from the revenues and other funds pledged therefor and that neither the faith and credit nor the taxing power of the State or of any political subdivision thereof is pledged as security for the payment of the principal of or the interest on such bond or note.

Expenses incurred by the agency in carrying out the provisions of this Chapter may be made payable from funds provided pursuant to, or made available for use under, this Chapter and no liability shall be incurred by the agency hereunder beyond the extent to which moneys shall have been so provided.

Sec. 11. Bonds and Notes. (a) The agency is hereby authorized to provide for the issuance, at one time or from time to time, of bonds, or notes in anticipation of the issuance of bonds, of the agency to carry out and effectuate its corporate purposes. The principal of and the interest on such bonds or notes shall be payable solely from funds provided under this Chapter for such payment. Any such notes may be made payable from the proceeds of bonds or renewal notes or, in the event bond or renewal note proceeds are not available, such notes may be paid from any available revenues or other funds provided therefor. The bonds or notes of each issue shall be dated and may be made redeemable before maturity at the option of the agency at such price or prices and upon such terms and conditions as may be determined by the agency. Any such bonds or notes shall bear interest at such rate or rates as may be determined by the Local Government Commission of North Carolina with the approval of the agency. Notes shall mature at such time or times not exceeding 10 years from their date or dates and bonds shall mature at such time or times not exceeding 40 years from their date or dates, as may be determined by the agency. The agency shall determine the form and manner of execution of the bonds or notes, including any interest coupons to be attached thereto, and shall fix the denomination or denominations and the place or places of payment of principal and interest, which may be any bank or trust company within or without the State. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or notes or coupons attached thereto shall cease to be such officer before the delivery thereof, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. The agency may also provide for the authentication of the bonds or notes by a trustee or fiscal agent. The bonds or notes may be issued in coupon or in registered form, or both, as the agency may determine, and provision may be made for the registration of any coupon bonds or notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds or notes of any bonds or notes registered as to both principal and interest, and for the interchange of registered and coupon bonds or notes. No bonds or notes may be issued by the
agency under this Chapter unless the issuance thereof is approved by the Local Government Commission of North Carolina.

(b) The agency shall file with the Secretary of the Local Government Commission an application requesting approval of the issuance of such bonds or notes which shall contain such information and have attached to it such documents concerning the proposed financing and prospective borrower, vendee or lessee as the Secretary may require.

In determining whether a proposed bond or note issue should be approved, the Local Government Commission may consider, in addition to the criteria and requirements mentioned in this Chapter, the effect of the proposed financing upon any scheduled or proposed sale of tax-exempt obligations by the State or any of its agencies or departments or by any unit of local government in the State.

The Local Government Commission shall approve the issuance of such bonds or notes if, upon the information and evidence it receives, it finds and determines that the proposed financing will effectuate the purposes of this Chapter.

Upon the filing with the Local Government Commission of a resolution of the agency requesting that its bonds or notes be sold, such bonds or notes may be sold in such manner, either at public or private sale, and for such price as the Local Government Commission shall determine to be for the best interests of the agency and effectuate best the purposes of this Chapter, provided that such sale shall be approved by the agency.

(c) The proceeds of any bonds or notes shall be used solely for the purposes for which issued and shall be disbursed in such manner and under such restrictions, if any, as the agency may provide in the resolution authorizing the issuance of, or any trust agreement securing, such bonds or notes.

(d) Prior to the preparation of definitive bonds, the agency may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds, when such bonds shall have been executed and are available for delivery. The agency may also provide for the replacement of any bonds or notes which shall become mutilated or shall be destroyed or lost.

(e) Bonds or notes may be issued under the provisions of this Chapter without obtaining, except as otherwise expressly provided in this Chapter, the consent of any department, division, commission, board, body, bureau or agency of the State, and without any other proceedings or the happening of any conditions or things other than those proceedings, conditions or things which are specifically required by this Chapter and the provisions of the resolution authorizing the issuance of, or any trust agreement securing, such bonds or notes.

Sec. 12. Trust Agreement or Resolution. In the discretion of the agency any bonds or notes issued under the provisions of this Chapter may be secured by a trust agreement by and between the agency and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the State. Such trust agreement or the resolution authorizing the issuance of such bonds or notes may pledge or assign all or any part of the revenues of the agency received pursuant to this Chapter, including, without limitation, fees, loan repayments, purchase price payments, rents, charges, insurance proceeds, condemnation awards and any other revenues and funds.
received in connection with any project and may grant a deed of trust or a mortgage on any project. Such trust agreement or resolution may contain such provisions for protecting and enforcing the rights and remedies of the holders of any such bonds or notes as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the agency in relation to the purposes to which bond or note proceeds may be applied, the disposition or pledging of the revenues of the agency, including any payments in respect of any federally guaranteed security or any federally insured mortgage note, the duties of the agency with respect to the acquisition, construction, maintenance, repair and operation of any project, the fees, loan repayments, purchase price payments, rents and charges to be fixed and collected in connection therewith, the terms and conditions for the issuance of additional bonds or notes, and the custody, safeguarding and application of all moneys. All bonds issued under this Chapter shall be equally and ratably secured by a pledge, charge, and lien upon revenues provided for in such trust agreement or resolution, without priority by reason of number, or of dates of bonds, execution, or delivery, in accordance with the provisions of this Chapter and of such trust agreement or resolution; except that the agency may provide in such trust agreement or resolution that bonds issued pursuant thereto shall to the extent and in the manner prescribed in such trust agreement or resolution be subordinated and junior in standing, with respect to the payment of principal and interest and the security thereof, to any other bonds. It shall be lawful for any bank or trust company incorporated under the laws of the State which may act as depositary of the proceeds of bonds or notes, revenues or other money hereunder to furnish such indemnifying bonds or to pledge such securities as may be required by the agency. Any such trust agreement or resolution may set off the rights and remedies, including foreclosure of any deed of trust or mortgage, of the holders of any bonds or notes and of the trustee, and may restrict the individual right of action by any such holders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the agency may deem reasonable and proper for the security of the holders of any bonds or notes. Expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of any project or paid from the revenues pledged or assigned to the payment of the principal of and the interest on bonds or notes or from any other funds available to the agency.

Sec. 13. Revenues; Pledges of Revenues. (a) The agency is hereby authorized to fix and to collect fees, loan repayments, purchase price payments, rents and charges for the use of any project, and any part or section thereof, and to contract with any participating institution for higher education for the use thereof. The agency may require that the participating institution for higher education shall operate, repair or maintain such project and shall bear the cost thereof and other costs of the agency in connection therewith, all as may be provided in the agreement of sale or lease, loan agreement or other contract with the agency, in addition to other obligations imposed under such agreement or contract.

(b) The fees, loan repayments, purchase price payments, rents and charges shall be fixed so as to provide a fund sufficient, with such other funds as may be made available therefor, (i) to pay the costs of operating, repairing and maintaining the project to the extent that adequate provision for the payment of such costs has not otherwise been provided for, (ii) to pay the principal of and
the interest on all bonds or notes as the same shall become due and payable and
(iii) to create and maintain any reserves provided for in the resolution
authorizing the issuance of, or any trust agreement securing, such bonds; and
such fees, loan repayments, purchase price payments, rents and charges may be
applied or pledged to the payment of debt service on the bonds prior to the
payment of the costs of operating, repairing and maintaining the project.

(c) All pledges of fees, loan repayments, purchase price payments, rents,
charges and other revenues under the provisions of this Chapter shall be valid
and binding from the time when such pledges are made. All such revenues so
pledged and thereafter received by the agency shall immediately be subject to
the lien of such pledge without any physical delivery thereof or further act, and
the lien of any such pledge shall be valid and binding as against all parties
having claims of any kind in tort, contract or otherwise against the agency,
irrespective of whether such parties have notice thereof. The resolution or any
trust agreement by which a pledge is created or any loan agreement, agreement
of sale or lease need not be filed or recorded except in the records of the agency.

(d) The State of North Carolina does pledge to and agree with the holders
of any bonds or notes issued by the agency that so long as any of such bonds or
notes are outstanding and unpaid the State will not limit or alter the rights
vested in the agency at the time of issuance of the bonds or notes to fix, revise,
charge, and collect or cause to be fixed, revised, charged and collected loan
repayments, purchase price payments, rents, fees and charges for the use of or
services rendered by any project in connection with which the bonds or notes
were issued, so as to provide a fund sufficient, with such other funds as may be
made available therefor, to pay the costs of operating, repairing and
maintaining the project, to pay the principal of and the interest on all bonds
and notes as the same shall become due and payable and to create and maintain
any reserves provided therefor and to fulfill the terms of any agreements made
with the bondholders or noteholders, nor will the State in any way impair the
rights and remedies of the bondholders or noteholders until the bonds or notes
and all costs and expenses in connection with any action or proceedings by or on
behalf of the bondholders or noteholders, are fully paid, met and discharged.

Sec. 14. Trust Funds. Notwithstanding any other provisions of law to
the contrary, all moneys received pursuant to the authority of this Chapter,
including, without limitation, fees, loan repayments, purchase price payments,
rents, charges, insurance proceeds, condemnation awards and any other
revenues and funds received in connection with any project, shall be deemed to
be trust funds to be held and applied solely as provided in this Chapter. The
resolution authorizing the issuance of, or any trust agreement securing, any
bonds or notes may provide that any of such moneys may be temporarily
invested pending the disbursement thereof and shall provide that any officer
with whom, or any bank or trust company with which, such moneys shall be
deposited shall act as trustee of such moneys and shall hold and apply the same
for the purposes of this Chapter, subject to such limitations as this Chapter and
such resolution or trust agreement may provide. Any such moneys may be
invested as provided in G.S. 159-30, as it may from time to time be amended.

Sec. 15. Remedies. Any holder of bonds or notes issued under the
provisions of this Chapter or any coupons appertaining thereto, and the trustee
under any trust agreement or resolution authorizing the issuance of such bonds
or notes, except to the extent the rights herein given may be restricted by such
trust agreement or resolution, may, either at law or in equity, by suit, action, \mandamus\ or other proceeding, protect and enforce any and all rights under the
laws of the State or granted hereunder or under such trust agreement or
resolution, or under any other contract executed by the agency pursuant to this
Chapter, and may enforce and compel the performance of all duties required by
this Chapter or by such trust agreement or resolution to be performed by the
agency or by any officer thereof.

Sec. 16. Investment Securities. All bonds, notes and interest coupons
appertaining thereto issued under this Chapter are hereby made investment
securities within the meaning of and for all the purposes of Article 8 of the
Uniform Commercial Code as enacted in this State, whether or not they are of
such form and character as to be investment securities under said Article 8,
subject only to the provisions of the bonds and notes pertaining to registration.

Sec. 17. Bonds or Notes Eligible for Investment. Bonds or notes issued
under the provisions of this Chapter are hereby made securities in which all
public officers and public bodies of the State and its political subdivisions, all
insurance companies, trust companies, banking associations, investment
companies, executors, administrators, trustees and other fiduciaries may
properly and legally invest funds, including capital in their control or belonging
to them. Such bonds or notes are hereby made securities which may properly
and legally be deposited with and received by any State or municipal officer or
any agency or political subdivision of the State for any purpose for which the
deposit of bonds, notes or obligations of this State is now or may hereafter be
authorized by law.

Sec. 18. Refunding Bonds or Notes. The agency is hereby authorized to
provide for the issuance of refunding bonds or notes for the purpose of
refunding any bonds or notes then outstanding which shall have been issued
under the provisions of this Chapter, including the payment of any redemption
premium thereon and any interest accrued or to accrue to the date of
redemption of such bonds or notes and, if deemed advisable by the agency, for
any corporate purpose of the agency, including, without limitation:

(1) Constructing improvements, additions, extensions or enlargements of
the project in connection with which the bonds or notes to be refunded shall
have been issued, and

(2) Paying all or any part of the cost of any additional project.

The issuance of such bonds or notes, the maturities and other details
thereof, the rights of the holders thereof, and the rights, duties and obligations
of the agency in respect of the same shall be governed by the provisions of this
Chapter which relate to the issuance of bonds or notes, insofar as such
provisions may be appropriate therefor.

Refunding bonds or notes may be sold or exchanged for outstanding bonds
or notes issued under this Chapter and, if sold, the proceeds thereof may be
applied, in addition to any other authorized purposes, to the purchase,
redemption or payment of such refunding bonds or notes, with any other
available funds, to the payment of the principal, accrued interest and any
redemption premium on the bonds or notes being refunded, and, if so provided
or permitted in the resolution authorizing the issuance of, or in the trust
agreement securing, such bonds or notes, to the payment of any interest on such
refunding bonds or notes and any expenses in connection with such refunding,
such proceeds may be invested in direct obligations of, or obligations the
principal of and the interest on which are unconditionally guaranteed by, the United States of America which shall mature or which shall be subject to redemption by the holders thereof, at the option of such holders, not later than the respective dates when the proceeds, together with the interest accrued thereon, will be required for the purposes intended.

Sec. 19. Annual Report. The agency shall, promptly following the close of each fiscal year, submit an annual report of its activities under this Chapter for the preceding year to the Governor, the State Auditor, the General Assembly, the Advisory Budget Commission and the Local Government Commission. The agency shall cause an audit of its books and accounts relating to its activities under this Chapter to be made at least once in each year by an independent certified public accountant and the cost thereof may be paid from any available moneys of the agency.

Sec. 20. Officers Not Liable. No member or officer of the agency shall be subject to any personal liability or accountability by reason of his execution of any bonds or notes or the issuance thereof.

Sec. 21. Tax Exemption. The exercise of the powers granted by this Chapter will be in all respects for the benefit of the people of the State and will promote their health and welfare, and no tax or assessment shall be levied upon any project undertaken by the agency prior to the retirement or provision for the retirement of all bonds or notes issued and obligations incurred by the agency in connection with such project.

Any bonds or notes issued by the agency under the provisions of this Chapter, their transfer and the income therefrom (including any profit made on the sale thereof) shall at all times be free from taxation by the State or any local unit or political subdivision or other instrumentality of the State, excepting inheritance or gift taxes.

Sec. 22. Conflict of Interest. If any member, officer or employee of the agency shall be interested either directly or indirectly, or shall be an officer or employee of or have an ownership interest in any firm or corporation interested directly or indirectly, in any contract with the agency, such interest shall be disclosed to the agency and shall be set forth in the minutes of the agency, and the member, officer or employee having such interest therein shall not participate on behalf of the agency in the authorization of any such contract.

Sec. 23. Additional Method. The foregoing sections of this Chapter shall be deemed to provide an additional and alternative method for the doing of the things authorized thereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing; provided, however, that the issuance of bonds or notes under the provisions of this Chapter need not comply with the requirements of any other law applicable to the issuance of bonds or notes.

Sec. 24. Liberal Construction. This act, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect the purposes thereof.

Sec. 25. Inconsistent Laws Inapplicable. Insofar as the provisions of this act are inconsistent with the provisions of any general or special laws, or parts thereof, the provisions of this act shall be controlling.

Sec. 26. The provisions of this act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction,
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CHAPTER 785

AN ACT REGARDING LOAN BROKERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 66-106 is rewritten to read:

"§ 66-106. Definitions.—For purposes of this Article the following definitions apply:

(a) A 'loan broker' is any person, firm, or corporation who, in return for any consideration from any person, promises to (1) procure for such person, or assist such person in procuring, a loan from any third party; or (2) consider whether or not it will make a loan to such person.

(b) A 'loan' is an agreement to advance money or property in return for the promise to make payments therefor, whether such agreement is styled as a loan, a lease or otherwise.

Provided, that this Article shall not apply to any party approved as a mortgagee by the Secretary of Housing and Urban Development, the Federal Housing Administration, the Veterans Administration, a National Mortgage Association or any federal agency; nor to any party currently designated and compensated by a North Carolina licensed insurance company as its agent to service loans it makes in this State; nor to any insurance company registered with and licensed by the North Carolina Insurance Commissioner; nor to any attorney-at-law, public accountant, or dealer registered under the North Carolina Securities Act, acting in the professional capacity for which such attorney-at-law, public accountant, or dealer is registered or licensed under the laws of the State of North Carolina. Provided further that subdivision (a)(2) above shall not apply to any lender whose loans or advances to any person, firm or corporation in North Carolina aggregate more than one million dollars ($1,000,000) in the preceding calendar year."

Sec. 2. G.S. 66-109(a) is amended by deleting from the third line thereof the words "a copy" and inserting in lieu thereof the words "two copies".

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of July, 1981.
S. B. 683  

CHAPTER 786  
AN ACT TO PROVIDE FOR PAYMENT OF THE COST OF ELECTIONS ON THE QUESTION OF FORMATION OF A NEW MUNICIPALITY OR SPECIAL DISTRICT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 163 of the General Statutes is amended by adding a new section to read:

"§ 163-288.3. Payment of cost of elections on question of formation of a new municipality or special district.—Whenever a referendum or election is held on the question of incorporation of a new municipality or the formation of a special district, the cost of the election shall be paid by the new municipality or special district in the event the voters approve of incorporation or creation and the new municipality or special district is established. If the voters disapprove and the new municipality or special district is not established, the cost of the election shall be paid by the county. The cost of the election shall be advanced by the county, which shall be reimbursed within 18 months of the date of election, by the municipality or special district if it is established."

Sec. 2. The fifth sentence of G.S. 69-25.2 is rewritten to read:

"The cost of holding the election to establish a district shall be paid by the county, provided that if the district is established, then the county shall be reimbursed the cost of the election from the taxes levied within the district, but the cost of an election to increase the allowable tax under G.S. 69-25.1 or to abolish a fire district under G.S. 69-25.10 shall be paid from the funds of the district."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of July, 1981.

H. B. 284  

CHAPTER 787  
AN ACT TO AMEND ARTICLE 7 OF CHAPTER 74 CONCERNING THE MINING ACT OF 1971.

The General Assembly of North Carolina enacts:

Section 1. G.S. 74-50 is amended by inserting a new paragraph between lines 13 and 14 to read as follows:

"Prior to the issuance of a new mining permit, the operator shall make a reasonable effort, satisfactory to the Department, to notify all owners of record of land adjoining the proposed site, and to notify the chief administrative officer of the county or municipality in which the site is located that he intends to conduct a mining operation on the site in question."

Sec. 2. G.S. 74-51 is amended by rewriting the fourth paragraph thereof to read as follows:

"Before deciding whether to grant a new permit, the Department shall circulate copies of a notice of application for review and comment as it deems advisable. The Department shall grant or deny the permit requested as expeditiously as possible, but in no event later than 60 days after the application form and any relevant and material supplemental information reasonably required shall have been filed with the Department, or if a public hearing is held, within 30 days following the hearing and the filing of any
relevant and material supplemental information reasonably required by the Department. Priority consideration shall be given to applicants who submit evidence that the mining proposed will be for the purpose of supplying materials to the Board of Transportation."

Sec. 3. G.S. 74-51 is further amended by inserting a new paragraph between the fourth and fifth paragraphs of the section to read as follows:

"Upon its determination that significant public interest exists, the Department shall conduct a public hearing on any application for a new mining permit. Such hearing shall be held before the Department reaches a final decision on the application, and in making its determination, the Department shall give full consideration to all comments submitted at the public hearing. Such public hearing shall be held within 60 days of the filing of the application."

Sec. 4. G.S. 74-54 is amended by rewriting the second paragraph to read as follows:

"The applicant shall have the option of filing a separate bond for each operating permit or of filing a blanket bond covering all mining operations within the State for which he holds a permit. The amount of each bond shall be based upon the area of affected land to be reclaimed under the approved reclamation plan or plans to which it pertains, less any such area where reclamation has been completed and released from coverage by the Department, pursuant to G.S. 74-56, or based on such other criteria established by the Mining Commission. The Department shall set the amount of the required bond in all cases, based upon a schedule established by the Mining Commission."

Sec. 5. G.S. 74-62 is amended on line 2 by deleting the brackets surrounding the letter "A" as it appears at the end of the line.

Sec. 6. G.S. 74-63 is amended on line 5 by deleting the brackets surrounding the letter "A" as it appears following the number "150".

Sec. 7. G.S. 74-64(a) is amended by designating all of the existing subdivision (a)(1) as subdivision (a)(1)a, and by adding a new subdivision at the end thereof to read as follows:

"b. Any permitted operator who violates any of the provisions of this Article, any rules or regulations promulgated thereunder, or any of the terms and conditions of his mining permit shall be subject to a civil penalty of not more than one hundred dollars ($100.00). Each day of a continuing violation shall constitute a separate violation. Prior to the assessment of any such civil penalty, written notice of the violation shall be given. The notice shall describe the violation with reasonable particularity, shall specify a time period reasonably calculated to permit the violator to complete actions to correct the violation, and shall state that failure to correct the violation within that period may result in the assessment of a civil penalty."

Sec. 8. G.S. 74-64 (a)(3) is amended by including the phrase "or equitable settlement reached" after the word "Department" in line 2.

Sec. 9. G.S. 143-34.12 is amended by deleting the line thereof which reads as follows:

"Chapter 74, Article 7, entitled "The Mining Act of 1971."

Sec. 10. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of July, 1981.
CHAPTER 788

H. B. 288

AN ACT TO AMEND CHAPTER 84 OF THE GENERAL STATUTES OF NORTH CAROLINA RELATING TO THE NORTH CAROLINA STATE BAR AND TO REMOVE ARTICLE 4 OF THAT CHAPTER FROM THE AUTOMATIC TERMINATION PROVISIONS OF G.S. 143-34.12.

The General Assembly of North Carolina enacts:

Section 1. G.S. 84-2 is amended by striking all of the first sentence following the word “shall” on line 3 and substituting therefor the words “engage in the private practice of law”.

Sec. 2. G.S. 84-16 is amended in the first sentence of the fourth paragraph by deleting the word “Only” and substituting therefor the word “All”.

Sec. 3. G.S. 84-17 is amended by adding a new paragraph at the end to read:

“In addition to the 50 Councilors, there shall be three public members not licensed to practice law in this or any other state who shall be appointed by the Governor.”

Sec. 4. G.S. 84-18 is amended by adding a new subsection (c) to read:

“(c) Public members shall serve three-year terms. No public member shall serve more than two complete consecutive terms.”

Sec. 5. G.S. 84-34 is amended by striking from line 2 the number “1975” and substituting therefor “1982” and by striking from line 3 the words and figures “of seventy-five dollars ($75.00)” and substituting therefor “of ninety dollars ($90.00)”.

G.S. 84-34 is further amended by striking the phrase beginning with the word “July” on line 12 and ending with the words and punctuation “December 31)” on line 13 and substituting therefor the words, “January of the calendar year”.

Sec. 6. G.S. 143-34.12 is amended by deleting line 42, which reads:

“Chapter 84, Article 4, entitled ‘North Carolina State Bar’.”

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of July, 1981.

S. B. 677

CHAPTER 789

AN ACT REGARDING DISCIPLINARY HEARINGS FOR ENGINEERS AND SURVEYORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 89C-22(b) as the same appears in the 1981 Replacement Volume 2C of the General Statutes of North Carolina, is amended by deleting the words “within three months after the date on which they shall have been referred” and inserting the following: “or hearing officer as provided under the requirements of Chapter 150A of the General Statutes.”

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of July, 1981.
H. B. 370  CHAPTER 790
AN ACT TO CLARIFY THE PROVISIONS RELATING TO TERRITORIAL RATING IN NONFLEET PRIVATE PASSENGER AUTOMOBILE INSURANCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-124.19(4) is amended on line 15 by deleting the period after the word "evidence" and by adding the following language:
"and shall at least once every 10 years make a complete review of the territories for nonfleet private passenger motor vehicle insurance to determine whether they are proper and reasonable."

Sec. 2. This act shall become effective January 1, 1982.

In the General Assembly read three times and ratified, this the 2nd day of July, 1981.

H. B. 1116  CHAPTER 791
AN ACT TO MODIFY THE MEMBERSHIP OF THE STATE FIRE COMMISSION AND TO CLARIFY THE AUTHORITY OF THE COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-481 is amended by rewriting the first two paragraphs to read:
"There is hereby created the State Fire Commission of the Department of Crime Control and Public Safety which shall be composed of twelve voting members as follows: The Executive Secretary and the Legislative Chairman of the North Carolina State Firemen's Association, the Executive Secretary of the North Carolina Association of Fire Chiefs, the Director of the North Carolina Fire College and Pump School, a County Fire Marshal to be elected by the County Fire Marshall Administrative Association, one member of the House of Representatives appointed by the Speaker of the House, one member of the Senate appointed by the President of the Senate, one mayor or other elected city official appointed by the Governor after consulting with the President of the League of Municipalities, one county commissioner appointed by the Governor after consulting with the President of the Association of County Commissioners, the Director of Fire and Rescue Training for the North Carolina Department of Insurance, the Director of Fire Training for the North Carolina Department of Community Colleges, and one member appointed by the Governor from the public at large, not employed by government and not directly involved in fire fighting.

The following State officials, or their designees, shall serve by virtue of their offices as nonvoting members of the Commission: the Commissioner of Insurance, the Commissioner of Labor, the State Auditor, the Attorney General, the Secretary of Crime Control and Public Safety, the Secretary of Natural Resources and Community Development, and the President of the Department of Community Colleges."

Sec. 2. G.S. 143B-481 is further amended by adding the following new paragraph between the third and fourth paragraphs of that section:
"Appointments made by the Speaker of the House and the President of the Senate shall be for two-year terms beginning on March 1 of odd-numbered
years. The legislative members of the Commission shall not be disqualified from Commission membership because of failure to seek or attain reelection to the General Assembly, but resignation or removal from office as a member of the General Assembly shall constitute resignation or removal from the Commission. A vacancy in either of the legislative places on the Commission shall be filled by the appointing officer for the remainder of the unexpired term."

Sec. 3. G.S. 143B-482 is amended by designating the present section as subsection (a), by deleting the word "and" at the end of subdivision (14), by renumbering subdivision (15) as subdivision (18), and by adding the following new subdivisions between (14) and (18):

"(15) To serve as a central office for the collection and dissemination of information relative to fire service activities and programs in State government. All State government agencies conducting fire service related programs and activities shall report the status of these programs and activities to the State Fire Commission on a quarterly basis and they shall also report to the State Fire Commission any new programs or changes to existing programs as they are implemented;

(16) To establish voluntary minimum professional qualifications for all levels of fire service personnel;

(17) To prepare an annual report to the Governor on its fire prevention and control activities and plans, and to recommend legislation concerning fire prevention and control; and"

Sec. 4. G.S. 143B-482 is further amended by adding the following new subsection:

"(b) Each State agency involved in fire prevention and control shall furnish the executive director of the Fire Commission such information as may be required to carry out the intent of this section."

Sec. 5. G.S. 143B-483(b) is amended by deleting the words "National Fire Prevention and Control Administration of the United States Department of Commerce" from the second sentence of that subsection and substituting the words "United States Fire Administration, Federal Emergency Management Agency".

Sec. 6. The initial appointments by the Speaker of the House and the President of the Senate pursuant to Section 1 of this act may be made at any time after ratification, for terms to expire February 28, 1983. Thereafter their appointments shall be as stated in Section 2. The Governor's appointees to the Fire Commission shall continue to serve under the terms of their previous appointments until their successors are appointed and qualified pursuant to G.S. 143B-481 as rewritten by this act.

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of July, 1981.
H. B. 1229  CHAPTER 792
AN ACT TO REMOVE BARRIERS TO COORDINATING HUMAN SERVICE AND VOLUNTEER TRANSPORTATION.

Whereas, human service transportation has grown to serve the elderly, handicapped, young, poor, and others who have difficulty in securing transportation to needed services; and

Whereas, this type of transportation has not been legally classified in State statutes; and

Whereas, present legal classifications pertaining to "for hire" and private transportation providers do not adequately provide for human service transportation; and

Whereas, the lack of a legal classification has created insurance and regulatory problems for many local human service agencies and volunteers who provide human service transportation; and

Whereas, a bill is needed to ensure that State and local regulatory laws pertaining to "for hire" commercial vehicles will not be applied to these volunteers and human service agencies; and

Whereas, the North Carolina Departments of Human Resources and Transportation, the North Carolina Association of County Directors of Social Services, and the National Governors' Association support this concept; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Chapter 62 of the General Statutes is amended by adding a new Article 12A, to read as follows:

"ARTICLE 12A.

"Human Service Transportation.

"§ 62-289.1. Short title.—This act shall be known and may be cited as the 'North Carolina Act to Remove Barriers to Coordinating Human Service and Volunteer Transportation'.

"§ 62-289.2. Purpose.—In order to promote improved transportation for the elderly, handicapped and residents of rural areas and small towns through an expanded and coordinated transportation network, it is the intent of the General Assembly to recognize human service transportation and volunteer transportation as separate but contributing components of the North Carolina transportation system. Further, it is the intent of the General Assembly to remove barriers to low cost human service transportation.

"§ 62-289.3. Definitions.—As used in this Article: (a) 'Human service agency' means any charitable or governmental agency including, but not limited to: county departments of social services, area mental health, mental retardation or substance abuse authorities, local health departments, councils on aging, community action agencies, sheltered workshops, group homes and State residential institutions.

(b) 'Human service transportation' means motor vehicle transportation provided on a nonprofit basis by a human service agency for the purpose of transporting clients or recipients in connection with programs sponsored by the agency. The motor vehicle may be owned, leased, borrowed, or contracted for use by the human service agency.
(c) 'Nonprofit' as applied to human service transportation means motor vehicle transportation provided at cost.

(d) 'Person' means an individual, corporation, company, association, partnership or other legal entity.

(e) 'Volunteer transportation' means motor vehicle transportation provided by any person under the direction, sponsorship, or supervision of a human service agency. The person may receive an allowance to defray the actual cost of operating the vehicle but shall not receive any other compensation.

"§ 62-289.4. Classification of transportation.—The forms of transportation defined in G.S. 62-289.3(b) and (e) shall be classified as 'human service transportation' and 'volunteer transportation' for purposes of regulation, insurance, and general administration.

"§ 62-289.5. Inapplicable laws and regulations.—Human services transportation and volunteer transportation shall not be considered as for-hire transportation, commercial transportation or motor carriers, as defined by G.S. 62-3(17). Such transportation shall not be subject to regulation as motor carriers under G.S. 62-261.

"§ 62-289.6. Insurance for volunteers.—Human service agencies are authorized to purchase insurance to cover persons who provide volunteer transportation.

"§ 62-289.7. Municipal licenses and taxes.—No county, city, town, municipal corporation or other unit of local government may impose a special tax on or require a special license for human service transportation or volunteer transportation other than that customarily used or imposed on private passenger automobiles unless the tax or license is provided for by a statute, ordinance, or regulation specifically addressing human service transportation or volunteer transportation."

Sec. 2. G.S. 20-4.01(27)b is amended by deleting the first “or” in line 12, by substituting a semicolon for the period after the word “basis” in line 13 and by adding the following at the end of subdivision b: “or vehicles used for human service or volunteer transportation”.

Sec. 3. G.S. 20-7(a)(3) is amended on line 4 by adding after the phrase “farm bus,” the phrase “volunteer transportation vehicle,”.

Sec. 4. Severability. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or application of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Sec. 5. This act shall become effective January 1, 1982.

In the General Assembly read three times and ratified, this the 3rd day of July, 1981.
H. B. 1256

CHAPTER 793

AN ACT TO MAKE IT A FELONY TO FALSIFY DEPARTMENT OF TRANSPORTATION INSPECTION REPORTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-13.2 is amended by deleting the word "misdemeanor" each time it appears and inserting in lieu thereof the words "Class H felony".

Sec. 2. This act is effective October 1, 1981.

In the General Assembly read three times and ratified, this the 3rd day of July, 1981.

H. B. 1291

CHAPTER 794

AN ACT TO AMEND CHAPTER 116, ARTICLE 23, OF THE GENERAL STATUTES, PERTAINING TO THE STATE EDUCATION ASSISTANCE AUTHORITY FOR THE PURPOSE OF AUTHORIZING THE MAKING OF PARENTAL LOANS TO AID RESIDENT STUDENTS IN PURSUING THEIR EDUCATION BEYOND THE HIGH SCHOOL LEVEL.

The General Assembly of North Carolina enacts:

Section 1. Chapter 116, Article 23, of the General Statutes, is amended by adding at the end a new section to read as follows:

"§ 116-209.100. Parental loans.—(a) Policy. The General Assembly of North Carolina hereby finds and declares that the making and insuring of loans to the eligible parents of resident students is fully consistent with and furthers the long established policy of the State to encourage, promote and assist the education of the people of the State as more fully set forth in G.S. 116-201(a).

(b) Definitions. As used in this section, the following terms shall have the following meanings:

(1) 'Obligations', 'student obligations', or 'student loan obligations' as defined under G.S. 116-201(b)(7) includes, unless the context indicates a contrary intent, parental obligations.

(2) 'Parent' means a student's mother, father, adoptive parent, or legal guardian of the student if such guardian is required by court order to use his or her own financial resources to support that student.

(3) 'Parental loans' means loans made or guaranteed by the authority to a parent of an eligible student.

(4) 'Parental obligations' means obligations evidencing loans made pursuant to subsection (c) of this section.

(5) 'Resident student' means a student deemed by appropriate officials to qualify for the in-State tuition rate under some provision of G.S. 116-143.1.

(6) 'Student loans' includes, unless the context indicates a contrary intent, parental loans.

(c) Parental assistance. The authority is authorized to develop and administer programs and perform all functions necessary or convenient to promote and facilitate the making and insuring of loans to parents of resident students in order to facilitate the vocational and college education of such students who are enrolled or to be enrolled in eligible institutions. The authority is also authorized to provide such other services and loan assistance
to parents of resident students as the authority shall deem necessary or desirable for carrying out the purpose of this section and for qualifying for loans, grants, insurance, and other benefits and assistance under any program of the United States now or hereafter authorized fostering loans to eligible parents of resident students.

(d) Authorization to buy and sell parental obligations. The authority is hereby authorized and empowered to buy and sell parental obligations.

(e) Authorization to issue bonds. The authority is hereby authorized to provide for the issuance, at one time or from time to time, of bonds or revenue bonds, as such terms are defined in G.S. 116-201(4), in conformity with provisions of this section.”

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of July, 1981.

H. B. 1297

CHAPTER 795

AN ACT TO SUBSTANTIALLY REENACT THE POWER OF COUNTY BOARDS OF COMMISSIONERS TO REAPPORTION THEMSELVES BECAUSE OF SUBSTANTIAL POPULATION INEQUALITY WHERE THE VOTERS OF A DISTRICT NOMINATE OR ELECT THE COMMISSIONER.

The General Assembly of North Carolina enacts:

Section 1. Chapter 153A of the General Statutes is amended by adding a new section to read:

“§ 153A-22. Redefining electoral district boundaries.—(a) If a county is divided into electoral districts for the purpose of nominating or electing persons to the board of commissioners, the board of commissioners may find as a fact whether there is substantial inequality of population among the districts.

(b) If the board finds that there is substantial inequality of population among the districts, it may by resolution redefine the electoral districts.

(c) Redefined electoral districts shall be so drawn that the quotients obtained by dividing the population of each district by the number of commissioners apportioned to the district are as nearly equal as practicable, and each district shall be composed of territory within a continuous boundary.

(d) No change in the boundaries of an electoral district may affect the unexpired term of office of a commissioner residing in the district and serving on the board on the effective date of the resolution. If the terms of office of members of the board do not all expire at the same time, the resolution shall state which seats are to be filled at the initial election held under the resolution.

(e) A resolution adopted pursuant to this section shall be the basis of electing persons to the board of commissioners at the first general election for members of the board of commissioners occurring after the resolution’s effective date, and thereafter. A resolution becomes effective upon its adoption, unless it is adopted during the period beginning 150 days before the day of a primary and ending on the day of the next succeeding general election for membership on the board of commissioners, in which case it becomes effective on the first day after the end of the period.
(f) Not later than 10 days after the day on which a resolution becomes effective, the clerk shall file in the Secretary of State’s office, in the office of the register of deeds of the county, and with the chairman of the county board of elections, a certified copy of the resolution.

(g) This section shall not apply to counties where under G.S. 153A-58(3)d., or under public or local act, districts are for residence purposes only, and the qualified voters of the entire county nominate all candidates for and elect all members of the board."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of July, 1981.

H. B. 1147  
CHAPTER 796
AN ACT TO PROVIDE THAT REGISTRARS, JUDGES AND ASSISTANTS SHALL RECEIVE AT LEAST THE STATE MINIMUM WAGE ON ELECTION DAY.

The General Assembly of North Carolina enacts:

Section 1. The first paragraph of G.S. 163-46 is amended by deleting the words “the sum of thirty-five dollars ($35.00) per day” from the first sentence, the words “the sum of thirty dollars ($30.00) per day” from the second sentence, and the words “the sum of twenty-five dollars ($25.00) per day” from the third sentence, and inserting in each place the words “the State minimum wage”.

Sec. 2. G.S. 163-46 is amended by adding the following new paragraph at the end: “For the purpose of this section, the phrase ‘the State minimum wage’, means the amount set by G.S. 95-25.3(a). For the purpose of this section, no other provision of Article 2A of Chapter 95 of the General Statutes shall apply.”

Sec. 3. This act shall become effective July 1, 1982.

In the General Assembly read three times and ratified, this the 3rd day of July, 1981.

S. B. 323  
CHAPTER 797
AN ACT TO VALIDATE CERTAIN MARRIAGES.

The General Assembly of North Carolina enacts:

Section 1. Any marriages performed by ministers of the Universal Life Church prior to the effective date of this act are validated, unless they have been invalidated by a court of competent jurisdiction, provided that all other requirements of law have been met and the marriages would have been valid if performed by an official authorized by law to perform wedding ceremonies.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of July, 1981.
CHAPTER 798

S. B. 695

CHAPTER 798

AN ACT TO REPEAL A SECTION OF THE ROANOKE RAPIDS CITY CHARTER IN CONFLICT WITH G.S. 160A-64 CONCERNING COMPENSATION OF OFFICIALS.

The General Assembly of North Carolina enacts:

Section 1. Section 3.4 of the Charter of the City of Roanoke Rapids, as found in Chapter 1054, Session Laws of 1967, is repealed.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of July, 1981.

S. B. 716

CHAPTER 799

AN ACT TO AMEND THE STATESVILLE CITY CHARTER, CONCERNING THE CIVIL SERVICE BOARD.

The General Assembly of North Carolina enacts:

Section 1. Section 5.15 of the Charter of the City of Statesville, as found in Chapter 289, Session Laws of 1977, is amended by rewriting the second paragraph to read:

"The board shall have the authority to suspend, demote in rank, or terminate from employment any employee who has appealed. The board shall sustain the disciplinary action imposed by the chief or vacate the same or impose such disciplinary action as it may determine; provided that no such suspension, demotion or termination shall become final until concurred in by the city council."

Sec. 2. Section 5.14 of the Charter of the City of Statesville as found in Chapter 289, Session Laws of 1977 is rewritten to read:

"Sec. 5.14. Suspension of Fire and Police Chiefs. The mayor and city council or, upon proper delegation, the city manager shall have the authority to suspend, demote or terminate from employment the chief of either the police or fire department, but no such suspension, demotion or termination shall become final until concurred in by the civil service board."

Sec. 3. Section 5.5 of the Charter of the City of Statesville as found in Chapter 289, Session Laws of 1977, is amended by adding the following new sentence: "The board shall institute an affirmative action program in locating, testing and employing qualified blacks for entry level positions in police and fire departments, maintain accurate records and report regularly to city council on progress made in complying with federal court order."

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of July, 1981.
AN ACT TO APPORTION THE DISTRICTS OF THE NORTH CAROLINA HOUSE OF REPRESENTATIVES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 120-2 is rewritten to read:

"§120-2. House apportionment specified.—For the purpose of nominating and electing members of the North Carolina House of Representatives in 1982 and every two years thereafter, the State of North Carolina shall be divided into forty-four districts as follows:

District 1 shall consist of Camden, Chowan, Currituck, Dare, Pasquotank, Perquimans, Tyrrell, and Washington Counties, and shall elect two Representatives.

District 2 shall consist of Beaufort and Hyde Counties, and shall elect one Representative.

District 3 shall consist of Craven, Jones, Lenoir, and Pamlico Counties, and shall elect three Representatives.

District 4 shall consist of Carteret and Onslow Counties, and shall elect three Representatives.

District 5 shall consist of Bertie, Gates, Hertford, Martin, and Northampton Counties, and shall elect two Representatives.

District 6 shall consist of Halifax County, and shall elect one Representative.

District 7 shall consist of Edgecombe, Nash, and Wilson Counties, and shall elect four Representatives.

District 8 shall consist of Greene and Pitt Counties, and shall elect two Representatives.

District 9 shall consist of Wayne County, and shall elect two Representatives.

District 10 shall consist of Robeson County, and shall elect two Representatives.

District 11 shall consist of Brunswick, Duplin, and Pender Counties, and shall elect two Representatives.

District 12 shall consist of New Hanover County, and shall elect two Representatives.

District 13 shall consist of Caswell, Granville, Person, Vance, and Warren Counties, and shall elect three Representatives.

District 14 shall consist of Franklin and Johnston Counties, and shall elect two Representatives.

District 15 shall consist of Wake County, and shall elect six Representatives.

District 16 shall consist of Durham County, and shall elect three Representatives.

District 17 shall consist of Chatham and Orange Counties, and shall elect two Representatives.

District 18 shall consist of Harnett and Lee Counties, and shall elect two Representatives.

District 19 shall consist of Bladen, Columbus, and Sampson Counties, and shall elect three Representatives.

District 20 shall consist of Cumberland County, and shall elect five Representatives.
District 21 shall consist of Hoke and Scotland Counties, and shall elect one Representative.
District 22 shall consist of Alamance and Rockingham Counties, and shall elect four Representatives.
District 23 shall consist of Guilford County, and shall elect seven Representatives.
District 24 shall consist of Randolph County, and shall elect two Representatives.
District 25 shall consist of Moore County, and shall elect one Representative.
District 26 shall consist of Anson and Montgomery Counties, and shall elect one Representative.
District 27 shall consist of Richmond County, and shall elect one Representative.
District 28 shall consist of Alleghany, Ashe, Stokes, Surry, and Watauga Counties, and shall elect five Representatives.
District 29 shall consist of Forsyth County, and shall elect three Representatives.
District 30 shall consist of Davidson and Davie Counties, and shall elect three Representatives.
District 31 shall consist of Rowan County, and shall elect two Representatives.
District 32 shall consist of Stanly County, and shall elect one Representative.
District 33 shall consist of Cabarrus and Union Counties, and shall elect three Representatives.
District 34 shall consist of Caldwell, Wilkes, and Yadkin Counties, and shall elect three Representatives.
District 35 shall consist of Alexander and Iredell Counties, and shall elect two Representatives.
District 36 shall consist of Mecklenburg County, and shall elect nine Representatives.
District 37 shall consist of Catawba County, and shall elect two Representatives.
District 38 shall consist of Gaston and Lincoln Counties, and shall elect four Representatives.
District 39 shall consist of Avery, Burke, and Mitchell Counties, and shall elect two Representatives.
District 40 shall consist of Cleveland, Polk, and Rutherford Counties, and shall elect three Representatives.
District 41 shall consist of McDowell and Yancey Counties, and shall elect one Representative.
District 42 shall consist of Buncombe, Henderson, and Transylvania Counties, and shall elect five Representatives.
District 43 shall consist of Haywood, Jackson, Madison, and Swain Counties, and shall elect two Representatives.
District 44 shall consist of Cherokee, Clay, Graham, and Macon Counties, and shall elect one Representative.

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 3rd day of July, 1981.
AN ACT TO AMEND ARTICLE 6 OF CHAPTER 147 OF THE GENERAL STATUTES CONCERNING AUTHORIZED INVESTMENTS FOR THE GENERAL FUND AND THE HIGHWAY FUND.

The General Assembly of North Carolina enacts:

Section 1. G.S. 147-69.1(c)(4) is amended by adding a new subsection as follows:

"e. Prime quality commercial paper bearing the highest rating of at least one nationally recognized rating service and not bearing a rating below the highest by any nationally recognized rating service which rates the particular obligation."

Sec. 2. G.S. 147-69.1(c)(4) is further amended by adding another new subsection as follows:

"f. Bills of exchange or time drafts drawn on and accepted by a commercial bank and eligible for use as collateral by member banks in borrowing from a federal reserve bank, provided that the accepting bank or its holding company is either (i) incorporated in the State of North Carolina or (ii) has outstanding publicly held obligations bearing the highest rating of at least one nationally recognized rating service and not bearing a rating below the highest by any nationally recognized rating service which rates the particular obligations."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of July, 1981.

AN ACT CONCERNING ELECTION OF THE BRUNSWICK COUNTY BOARD OF COMMISSIONERS AND THE BRUNSWICK COUNTY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. Section 4 of Chapter 444, Session Laws of 1977 as amended by Chapter 1150, Session Laws of 1979, (Second Session 1980) is amended by adding the following new sentence at the end: "The chairman shall not vote to create a tie vote."

Sec. 2. Section 1 of Chapter 44, Session Laws of 1977, is amended by deleting "six members", and inserting in lieu thereof the words "five members".

Sec. 3. Section 2 of Chapter 444, Session Laws of 1977, is rewritten to read:

"Sec. 2. In 1982, two commissioners shall be elected for two-year terms. In 1984, five commissioners shall be elected. The members from Districts 1, 2, and 3 shall be elected in 1984 and quadrennially thereafter for four-year terms. The members from District 4 and 5 shall be elected in 1984 for a two-year term, and in 1986 and quadrennially thereafter for four-year terms."

Sec. 4. Section 3 of Chapter 444, Session Laws of 1977, is rewritten to read:

"Sec. 3. On or before July 1, 1983, the Board of Commissioners of Brunswick County shall divide the county into five districts, each of which shall have one commissioner to be elected. Members shall reside in and represent the districts, but the qualified voters of the entire county shall nominate all candidates for
and elect all members of the board. Each district shall be apportioned so the population of the districts are as nearly equal as practicable. After the five districts are established, they shall be numbered by lot to determine which districts shall be elected in 1984 for a two-year term and which for four years.

Sec. 5. The first sentence of Section 1 of Chapter 443, Session Laws of 1977 is rewritten to read:

"The Board of Education of Brunswick County shall consist of five members, to be elected as provided in Section 3 of this act."

Sec. 6. Section 2 of Chapter 443, Session Laws of 1977 is amended by deleting the word "township", and inserting in lieu thereof the word "district".

Sec. 7. Section 3 of Chapter 443, Session Laws of 1977 is rewritten to read:

"Sec. 3. In the election of 1982, three members shall be elected for two-year terms. In the election of 1984, five members shall be elected. The members from Districts 1, 2, and 3 shall be elected in 1984 and quadrennially thereafter for four-year terms. The members from Districts 4 and 5 shall be elected in 1984 for a two-year term, and in 1986 and quadrennially thereafter for four-year terms."

Sec. 8. Chapter 443, Session Laws of 1977 is amended by adding a new section to read:

"Sec. 3.1. The districts for election to the Board of Education shall be the same as established for the Brunswick County Board of Commissioners."

Sec. 9. Section 1 of Chapter 443, Session Laws of 1977 is further amended by deleting the second and third sentences and inserting in lieu thereof the following:

"The election shall be held on a partisan basis."

Sec. 10. The third sentence of Section 2 of Chapter 443, Session Laws of 1977 is repealed.

Sec. 11. (a) Section 1 of this act shall become effective immediately after the next vote on which the chairman votes to create a tie vote, but this act shall not affect that vote. Section 2 of this act shall become effective on the first Monday in December of 1984. Sections 3 and 4 of this act are effective upon ratification.

(b) Sections 7, 9 and 10 of this act shall become effective beginning with the 1982 election. Sections 5, 6 and 8 shall become effective beginning with the 1984 election.

Sec. 12. Not later than October 1, 1981, the Board of Commissioners of Brunswick County may, by resolution, redefine the boundaries of electoral districts established by Section 3 of Chapter 444, Session Laws of 1977, which currently provide for one commissioner per township, so that the population of each district is as nearly equal as practicable. If a resolution is adopted in accordance with this section, then notwithstanding Section 11 of this act, Sections 1, 2, 3, 4, 5, 7 and 11 of this act shall have no force or effect, and instead Sections 13, 14, 15, 16 and 17 shall become immediately effective. Also, if such resolution is adopted in accordance with this section, then Sections 6, 8, 9, and 10 shall become effective beginning with the 1982 election. A copy of such resolution shall be filed with the Secretary of State.
Sec. 13. Section 4 of Chapter 444, Session Laws of 1977 is amended by adding the following new language at the end:

"The chairman shall not vote to create a tie vote. The chairman of the board of commissioners may not resign as chairman without also resigning as a member of the board of commissioners unless the resignation as chairman is accepted by a unanimous vote of the remaining members of the board of commissioners."

Sec. 14. Section 4 of Chapter 443, Session Laws of 1977 is amended by adding the following new language at the end:

"The chairman of the board of education may not resign as chairman without also resigning as a member of the board of education unless the resignation as chairman is accepted by a unanimous vote of the remaining members of the board of education."

Sec. 15. Section 3 of Chapter 444, Session Laws of 1977 is amended by deleting "township" or "townships", each time they appear and inserting in lieu thereof "district", or "districts".

Sec. 16. If the board of county commissioners reapportions the residence districts in accordance with Section 12, and as a result of that action and the automatic reapportioning of the board of education provided by Section 8 of this act, a member of either board no longer resides in his district solely because of the reapportionment, the member may still serve the remainder of the term.

Sec. 17. If the board of commissioners adopts a resolution as provided in Section 12 of this act, then Sections 13, 14, 15 and 16 of this act shall become effective. Otherwise, those sections have no effect.

Sec. 18. Nothing in this act shall affect the boundaries of any taxing district. This act shall not apply to or have any effect now or in the future on the tax district established for the construction, establishment and maintenance of Smithville Township’s J. Arthur Dosher Memorial Hospital.

Sec. 19. Sections 11, 12, 17 and 18 of this act are effective upon ratification. Sections 1 through 10, 13, 14, 15 and 16 are effective as provided in Sections 11, 12 and 17.

In the General Assembly read three times and ratified, this the 3rd day of July, 1981.

H. B. 782

CHAPTER 803

AN ACT TO AMEND THE CONSTITUTION OF NORTH CAROLINA TO AUTHORIZE THE GENERAL ASSEMBLY TO PROVIDE FOR A DIRECT APPEAL FROM THE NORTH CAROLINA UTILITIES COMMISSION TO THE SUPREME COURT.

The General Assembly of North Carolina enacts:

Section 1. Article IV, Section 12(1) of the Constitution of North Carolina is amended by the addition of the following sentence at the end thereof: "The Supreme Court also has jurisdiction to review, when authorized by law, direct appeals from a final order or decision of the North Carolina Utilities Commission."

Sec. 2. The amendment set out in Section 1 of this act shall be submitted to the qualified voters of the State at the next statewide general election, statewide primary election, or statewide election, whichever occurs
earlier. That election shall be conducted under the laws then governing general elections in this State.

Sec. 3. At the general election each qualified voter presenting himself to vote shall be provided a ballot on which shall be printed the following:

"☐ FOR constitutional amendment giving the Supreme Court authority to review, when authorized by law, direct appeals from the N. C. Utilities Commission.

☐ AGAINST constitutional amendment giving the Supreme Court authority to review, when authorized by law, direct appeals from the N. C. Utilities Commission."

Sec. 4. If a majority of the votes cast are in favor of the amendment set out in Section 1 of this act, the amendment shall be certified by the State Board of Elections to the Secretary of State, who shall enroll the amendment among the permanent records of his office, and the amendment shall become effective January 1, 1983.

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of July, 1981.

H. B. 893    CHAPTER 804
AN ACT TO REQUIRE PASSENGER RESTRAINT SYSTEMS FOR CHILDREN UNDER FOUR YEARS OF AGE.

The General Assembly of North Carolina enacts:

Section 1. Article 3 of General Statutes Chapter 20 is hereby amended by adding a new G.S. 20-137.1 thereto to read as follows:

"§ 20-137.1. Child restraint systems required.—Every driver required to have a North Carolina driver’s license who is transporting his own child of less than two years of age, when the driver is operating his own motor vehicle (or a family purpose vehicle), shall have such child properly secured in a child passenger restraint system which is of a type (and which is installed in a manner) approved by the Commissioner of Motor Vehicles. Provided, however, this section shall not apply unless such child is occupying a seating position where seat safety belts are required by federal law or regulation. The requirements of this section may be met when the child is one year of age or older by securing the child in a seat safety belt.

The provisions of this section shall not apply: (1) to vehicles registered in another state or jurisdiction; (2) to ambulances or other emergency vehicles; (3) when the child’s personal needs are being attended to; or (4) if all seating positions equipped with child passenger restraint systems or seat safety belts are occupied."

Sec. 2. During the effective dates of this act The University of North Carolina Highway Safety Research Center shall conduct a statewide study to determine the effectiveness of the child restraint system in preventing deaths and injuries.

Sec. 3. Nothing herein shall be construed to obligate the General Assembly to make any appropriations to implement the provisions of this act.

Sec. 4. Any person violating this act during the period from July 1, 1982, to June 30, 1984, shall be given a warning ticket only. Thereafter a fine of ten
dollars ($10.00) will be levied against violators. No driver license points shall be assessed for a violation of G.S. 20-137.1.

Sec. 5. A violation of this act shall not constitute negligence per se or contributory negligence per se.

Sec. 6. This act shall become effective on July 1, 1982, and shall expire on June 30, 1985.

In the General Assembly read three times and ratified, this the 3rd day of July, 1981.

H. B. 931     CHAPTER 805

AN ACT TO MAKE IT UNLAWFUL FOR PROFESSIONAL SOLICITORS TO SOLICIT CHARITABLE CONTRIBUTIONS BY TELEPHONE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 14 of the General Statutes is amended by adding the following new section:

"§ 14-401.12. Soliciting charitable contributions by telephone.—(a) Any professional solicitor who solicits by telephone contributions for charitable purposes or in any way compensates another person to solicit by telephone contributions for charitable purposes shall be guilty of a misdemeanor. Any person compensated by a professional solicitor to solicit by telephone contributions for charitable purposes shall be guilty of a misdemeanor.

(b) Definitions. Unless a different meaning is required by the context, the following terms as used in this section have the meanings hereinafter respectively ascribed to them:

(1) 'Charitable purpose' shall mean any charitable, benevolent, religious, philanthropic, environmental, public or social advocacy or eleemosynary purpose for religion, health, education, social welfare, art and humanities, civic and public interest.

(2) 'Contribution' shall mean any promise, gift, bequest, devise or other grant for consideration or otherwise, of any money or property of any kind or value, including the promise to pay, which contribution is wholly or partly induced by a solicitation. The term 'contribution' shall not include payments by members of an organization for membership fees, dues, fines or assessments, or for services rendered to individual members, if membership in such organization confers a bona fide right, privilege, professional standing, honor or other direct benefit, other than the right to vote, elect officers, or hold offices; nor any money, credit, financial assistance or property received from any governmental authority; nor any donation of blood or any gift made pursuant to the Uniform Anatomical Gift Act. Reference to dollar amounts of 'contributions' or 'solicitations' in this section means, in the case of payments or promises to pay for merchandise or rights of any description, the value of the total amount paid or promised to be paid for such merchandise or rights, and not merely that portion of the purchase price to be applied to a charitable purpose.

(3) 'Professional solicitor' shall mean any person who, for a financial or other consideration, solicits contributions for or on behalf of a charitable organization, whether such solicitation is performed personally or through its agents, servants or employees specially

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employed by or for a charitable organization, who are engaged in the solicitation of contributions under the direction of such person; or a person who plans, conducts, manages, carries on, advises or acts as a consultant, whether directly or indirectly, to a charitable organization in connection with the solicitation of contributions but does not qualify as 'professional fund-raising counsel' as defined in this section. A bona fide salaried officer or employee of a charitable organization maintaining a permanent establishment within the State or the bona fide salaried officer or employee of a parent organization certified as tax exempt shall not be deemed to be a professional solicitor.

(4) 'Professional fund-raising counsel' shall mean any person who for a flat fixed fee under a written agreement plans, conducts, manages, carries on, or acts as a consultant, whether directly or indirectly, in connection with soliciting contributions for, or on behalf of any charitable organization but who actually solicits no contributions as a part of such services.

(5) The words 'solicit' and 'solicitation' shall mean the request or appeal, directly or indirectly, for any contribution on the plea or representation that such contribution will be used for a charitable purpose. Solicitation as defined herein shall be deemed to occur when the request is made, at the place the request is received, whether or not the person making the same actually receives any contribution.

(c) A solicitation by telephone is presumed to be for a charitable purpose if the person making the solicitation states or implies that some other named person or organization, other than the professional solicitor or his employees, is a sponsor or endorser of the solicitation who will share in the proceeds that result from the telephone solicitation."

Sec. 2. This act shall become effective October 1, 1981, and shall apply to acts committed on or after that date.

In the General Assembly read three times and ratified, this the 3rd day of July, 1981.

H. B. 1041

CHAPTER 806
AN ACT TO AMEND G.S. 75-33 RELATING TO REPRESENTATIONS OF ELIGIBILITY TO WIN A PRIZE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 75-33 is amended to read as follows:

"§ 75-33. Representation of eligibility to win a prize.—(a) No person, firm or corporation engaged in commerce shall, in connection with the sale or lease or solicitation for sale or lease of any goods, property or service, represent that another person, firm, and/or corporation has a chance to receive any prize or item of value without clearly disclosing on whose behalf the contest or promotion is conducted, and all material conditions which a participant must meet. Additionally, each of the following must be clearly and prominently disclosed immediately adjacent to the description of the item or prize to which it relates:

(1) The actual retail value of each item or prize (the price at which substantial sales of the item were made in the area within the last 90 days, or if no substantial sales were made, the actual cost of the item or
prize to the person on whose behalf the contest or promotion is conducted;

(2) The actual number of each item or prize to be awarded;

(3) The odds of receiving each item or prize.

It shall be unlawful to make any representation of the type governed by this section, if it has already been determined which items will be given to the person to whom the representation is made.

(b) The provisions of this section shall not apply where (1) all that is asked of participants is that they complete and mail, or deposit at a local retail commercial establishment, an entry blank obtainable locally or by mail, or call in their entry by telephone, or (2) at no time are participants asked to listen to a sales presentation.

(c) To the extent that representations of the type governed by this section are broadcast by radio or television or carried by cable-television, the required disclosures need not be made, if the required information is made available to interested persons on request without charge or cost to them.

(d) Nothing in this section shall create any liability for acts by the publisher, owner, agent or employee of a newspaper, periodical, radio station, television station, cable-television system or other advertising medium arising out of the publication or dissemination of any advertisement or promotion governed by this section, when the publisher, owner, agent or employee did not know that the advertisement or promotion violated the requirements of this section."

Sec. 2. This act shall take effect upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of July, 1981.

H. B. 1068  CHAPTER 807
AN ACT TO MAKE TECHNICAL CHANGES TO THE PRIVATE PROTECTIVE SERVICES ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 74C-3(b)(7) is repealed.

Sec. 2. G.S. 74C-3(a)(1) is amended by adding the following sentence at the end thereof:

"This definition does not include a person operating an armored car business pursuant to a motor carrier certificate or permit issued by the North Carolina Utilities Commission which grants operating rights for such business; however, armed armored car service guards shall be subject to the provisions of G.S. 74C-13."

Sec. 3. G.S. 74C-3(a)(4) is amended by adding the following sentence at the end thereof:

"This definition does not include a person operating a courier service business pursuant to a motor carrier certificate or permit issued by the North Carolina Utilities Commission which grants operating rights for such business; however, armed courier service guards shall be subject to the provisions of G.S. 74C-13."

Sec. 4. G.S. 74C-10(a) is rewritten as follows:

"(a) An applicant for a license or a trainee permit shall not be issued such license or permit unless the applicant files with the board and maintains a surety bond executed by a surety company authorized to do business in this
State in a sum of not less than five thousand dollars ($5,000) or a cash bond, in lieu of the surety bond in a sum of not less than five thousand dollars ($5,000), to protect the public from the wrongful or illegal acts of the bond principal or his agents operating in the course and scope of his agency. Only one bond shall be required of an applicant regardless of the number of licenses or trainee permits which he is issued under this Chapter.”

Sec. 5. G.S. 74C-10(h) is amended by adding the following at the end thereof:

“No cancellation or refusal to renew by an insurer of a licensee under this Chapter shall be effective unless the insurer has given the insured licensee notice of the cancellation or refusal to renew. Upon termination of insurance coverage for said licensee, the insurer shall give notice to the Administrator of the Board.”

Sec. 6. G.S. 74C-12 is amended on line 2 by deleting the words “notice and opportunity for hearing” and inserting in lieu thereof the words “compliance with Chapter 150A of the General Statutes.”

Sec. 7. G.S. 74C-4(b) is amended by adding the following at the end thereof:

“Board members may continue to serve until their successors have been appointed.”

Sec. 8. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of July, 1981.

H. B. 1121  CHAPTER 808

AN ACT TO AMEND ARTICLE V OF THE CONSTITUTION OF NORTH CAROLINA TO PERMIT THE GENERAL ASSEMBLY TO GRANT TO APPROPRIATE PUBLIC BODIES IN THE STATE ADDITIONAL POWERS TO DEVELOP NEW AND EXISTING SEAPORTS AND AIRPORTS, INCLUDING POWERS TO FINANCE AND REFINANCE FOR PUBLIC AND PRIVATE PARTIES SEAPORT AND AIRPORT AND RELATED FACILITIES AND IMPROVEMENTS.

The General Assembly of North Carolina enacts:

Section 1. A new section is hereby added to Article V of the Constitution of North Carolina to read as follows:

“Sec. 11. Seaport and Airport Facilities. (1) The General Assembly may enact laws to grant, in addition to the powers heretofore granted by law which are hereby confirmed, to appropriate public bodies in the State all powers useful in connection with the development to the fullest possible extent of new and existing seaports and airports throughout the State and, where the same will contribute directly to the utilization of seaports and airports within the State or outside the State, and for such purpose to authorize such public bodies:

(i) to acquire, construct, own, own jointly with public and private parties, lease as lessee, mortgage, sell, lease as lessor, or otherwise dispose of lands and facilities and improvements, including undivided interests therein,

(ii) to finance and to refinance for public and private parties seaport and airport facilities and improvements, and commercial, industrial, manufacturing, processing, mining, transportation, distribution, storage,
marine, aviation and environmental facilities and improvements which develop or further waterborne or airborne commerce and cargo and passenger traffic, and
(iii) to secure any such financing or refinancing by all or any portion of their revenues, income or assets or other available monies and by foreclosable liens on their properties but in no event to create a debt secured by a pledge of the faith and credit of the State or any other public body in the State.

(2) The General Assembly may provide in respect of seaport, airport or related properties of the State or a State agency that private parties using such properties make to the appropriate taxing authorities payments in lieu of the taxes which such private parties would have paid if such properties were not exempt from taxation.

Sec. 2. The amendment set out in Section 1 of this act shall be submitted to the qualified voters of the State at the next general election, statewide primary election, or at the next statewide election, whichever is earlier, which election shall be conducted under the laws then governing elections in the State. At that election, each qualified voter desiring to vote shall be provided a ballot on which shall be printed the following:

"☐ FOR Constitutional amendment to permit the General Assembly to grant to appropriate public bodies additional powers to develop new and existing seaports and airports, including powers to finance and refinance for public and private parties seaport and airport and related commercial, industrial, manufacturing, processing, mining, transportation, distribution, storage, marine, aviation and environmental facilities and improvements.

☐ AGAINST Constitutional amendment to permit the General Assembly to grant to appropriate public bodies additional powers to develop new and existing seaports and airports, including powers to finance and refinance for public and private parties seaport and airport and related commercial, industrial, manufacturing, processing, mining, transportation, distribution, storage, marine, aviation and environmental facilities and improvements."

Those qualified voters favoring the amendment set out in Section 1 of this act shall vote by making an X or a check mark in the square beside the statement beginning "FOR", and those qualified voters opposed to that amendment shall vote by making an ☐ or a check mark in the square beside the statement beginning "AGAINST".

Notwithstanding the foregoing provisions of this section, voting machines may be used in accordance with rules and regulations prescribed by the State Board of Elections.

Sec. 3. If a majority of votes cast thereon are in favor of the amendment set out in Section 1 of this act, the State Board of Elections shall certify the amendment to the Secretary of State, who shall enroll the amendment so certified among the permanent records of his office, and the amendment shall become effective upon such certification.

Sec. 4. Neither the ratification by the voters nor the failure of the voters to ratify the amendment set out in Section 1 of this act shall be construed as in derogation of any powers previously conferred by other laws.

Sec. 5. This act is effective upon ratification.
CHAPTER 808  Session Laws—1981

In the General Assembly read three times and ratified, this the 3rd day of July, 1981.

H. B. 1152  CHAPTER 809
AN ACT REGARDING THE AWARD OF ATTORNEYS' FEES IN CAVEAT PROCEEDINGS WHICH HAVE SUBSTANTIAL MERIT.
The General Assembly of North Carolina enacts:

Section 1. G.S. 6-21(2) is amended by rewriting the proviso at the end of the subdivision to read:

"provided, that in any caveat proceeding under this subdivision, the court shall allow attorneys' fees for the attorneys of the caveators only if it finds that the proceeding has substantial merit."

Sec. 2. This act is effective upon ratification and applies to all proceedings filed on and after that date.

In the General Assembly read three times and ratified, this the 3rd day of July, 1981.

H. B. 1168  CHAPTER 810
AN ACT TO MAKE CLEAR THAT THE STATE MAY BE EITHER A THIRD PARTY PLAINTIFF OR DEFENDANT IN CERTAIN ACTIONS.
The General Assembly of North Carolina enacts:

Section 1. G.S. 1A-1, Rule 14(c) is amended in the first sentence by deleting the phrase "third-party plaintiff" and by substituting the following "third party".

Sec. 2. This act is effective upon ratification and applies to actions commenced on or after this date.

In the General Assembly read three times and ratified, this the 3rd day of July, 1981.

H. B. 1209  CHAPTER 811
AN ACT TO AMEND CHAPTER 90, ARTICLE 6 OF THE GENERAL STATUTES RELATING TO THE PRACTICE OF OPTOMETRY.
The General Assembly of North Carolina enacts:

Section 1. G.S. 90-118.2 is amended by adding a new paragraph to the end to read:

"A licensee who practices in more than one office location shall make application to the Board for a duplicate license for each branch office for display as required by this section. In issuing a duplicate license, the address of the branch office location and the original certificate number shall be included. At the time of the annual renewal of licenses, those optometrists who have been issued a duplicate license for a branch office, shall make application to the North Carolina Board of Examiners in Optometry on a form provided by the Board for the renewal of the license in the same manner as provided for in G.S. 90-118.10 for the renewal of his license. The holder of a certificate for a branch office may cancel it by returning the certificate to the Secretary of the Board."

Sec. 2. The second sentence of G.S. 90-118.3 is repealed.

Sec. 3. The fourth sentence of G.S. 90-123.1 is amended by deleting the word "provided" and substituting the word "approved".

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Sec. 4. G.S. 90-118.8 is repealed.
Sec. 5. G.S. 90-118.9 is repealed.
Sec. 6. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 3rd day of July, 1981.

H. B. 1272  CHAPTER 812

AN ACT TO VALIDATE DEEDS FILED ON OR BEFORE DECEMBER 31, 1980.

The General Assembly of North Carolina enacts:

Section 1. G.S. 47-50 is amended by deleting "1960" and substituting "1980".
Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 3rd day of July, 1981.

H. B. 1318  CHAPTER 813

AN ACT TO AMEND CHAPTER 437, SESSION LAWS OF 1977 TO PERMIT PROFESSIONAL BOXING IN PITT AND WAKE COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 437, Session Laws of 1977, is amended by adding Section 3.1 to read:
"Sec. 3.1. All provisions of Chapter 437, Session Laws of 1977, shall apply to the Counties of Pitt and Wake, and the Board of Commissioners of Pitt and Wake Counties is granted the same authority as the Board of Commissioners of Cumberland County herein. This act shall remain effective so long as the Pitt and Wake Counties Boxing Commissions continue in active regulation of boxing exhibitions."
Sec. 2. This act shall become effective upon ratification.
In the General Assembly read three times and ratified, this the 3rd day of July, 1981.

H. B. 1294  CHAPTER 814

AN ACT TO RAISE THE CEILING FOR REPORTING NAMES OF POLITICAL CONTRIBUTORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-278.8(d) is amended by deleting the words and figures "fifty dollars ($50.00)" in all six places they appear and inserting in each place the words and figures "one hundred dollars ($100.00)".
Sec. 2. This act is effective with respect to contributions made or proceeds received on or after July 1, 1981.
In the General Assembly read three times and ratified, this the 3rd day of July, 1981.
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S. B. 24 CHAPTER 815
AN ACT FOR EQUITABLE DISTRIBUTION OF MARITAL PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. Chapter 50 is amended by adding a new section to be numbered G.S. 50-20 and to read as follows:

"§ 50-20. Disposition of separate and marital property upon divorce.—(a) Upon application of a party, the court shall determine what is the marital property and shall provide for an equitable distribution of the marital property between the parties in accordance with the provisions of this section.

(b) For purposes of this section:

(1) ‘Marital property’ means all real and personal property acquired by either spouse during the course of the marriage and presently owned, except property determined to be separate property in accordance with subdivision (2) of this section.

(2) ‘Separate property’ means all real and personal property acquired by a spouse before marriage or acquired by a spouse by bequest, devise, descent, or gift during the course of the marriage. However, property acquired by gift from the other spouse during the course of the marriage shall be considered separate property only if such an intention is stated in the conveyance. Property acquired in exchange for separate property shall be considered separate property regardless of whether the title is in the name of the husband or wife or both. The increase in value of separate property and the income derived from separate property shall be considered separate property. All professional licenses and business licenses which would terminate on transfer shall be considered separate property. Vested pension or retirement rights and the expectation of nonvested pension or retirement rights shall be considered separate property.

(3) ‘Distributive award’ means payments that are payable either in a lump sum or over a period of time in fixed amounts, but shall not include payments that are treated as ordinary income to the recipient under the Internal Revenue Code.

(c) There shall be an equal division by using net value of marital property unless the court determines that an equal division is not equitable. If the court determines that an equal division is not equitable, the court shall divide the marital property equitably. Factors the court shall consider under this subsection are as follows:

(1) the income, property, and liabilities of each party at the time the division of property is to become effective;
(2) any obligation for support arising out of a prior marriage;
(3) the duration of the marriage and the age and physical and mental health of both parties;
(4) the need of a parent with custody of a child or children of the marriage to occupy or own the marital residence and to use or own its household effects;
(5) vested pension or retirement rights and the expectation of nonvested pension or retirement rights, which are separate property;
(6) any equitable claim to, interest in, or direct or indirect contribution made to the acquisition of such marital property by the party not
having title, including joint efforts or expenditures and contributions and services, or lack thereof, as a spouse, parent, wage earner or homemaker;

(7) any direct or indirect contribution made by one spouse to help educate or develop the career potential of the other spouse;

(8) any direct contribution to an increase in value of separate property which occurs during the course of the marriage;

(9) the liquid or nonliquid character of all marital property;

(10) the difficulty of evaluating any component asset or any interest in a business, corporation or profession, and the economic desirability of retaining such asset or interest, intact and free from any claim or interference by the other party;

(11) the tax consequences to each party; and

(12) any other factor which the court finds to be just and proper.

(d) Before, during or after marriage the parties may by written agreement, duly executed and acknowledged in accordance with the provisions of G.S. 52-10 and G.S. 52-10.1, or by a written agreement valid in the jurisdiction where executed, provide for distribution of the marital property in a manner deemed by the parties to be equitable and the agreement shall be binding on the parties.

(e) In any action in which the court determines that an equitable distribution of all or portions of the marital property in kind would be impractical, the court in lieu of such distribution shall provide for a distributive award in order to achieve equity between the parties. The court may provide for a distributive award to facilitate, effectuate or supplement a distribution of marital property. The court may provide that any distributive award payable over a period of time be secured by a lien on specific property.

(f) The court shall provide for an equitable distribution without regard to alimony for either party or support of the children of both parties. After the determination of an equitable distribution, the court, upon request of either party, shall consider whether an order for alimony or child support should be modified or vacated pursuant to G.S. 50-16.9 or G.S. 50-13.7.

(g) If the court orders the transfer of real or personal property or an interest therein, the court may also enter an order which shall transfer title, as provided in G.S. 1A-1, Rule 70 and G.S. 1-228.

(h) If either party claims that any real property is marital property, that party may cause a notice of lis pendens to be recorded pursuant to Article 11 of Chapter 1 of the General Statutes. Any person whose conveyance or encumbrance is recorded or whose interest is obtained by descent, prior to the filing of the lis pendens, shall take the real property free of any claim resulting from the equitable distribution proceeding. The court may cancel the notice of lis pendens upon substitution of a bond with surety in an amount determined by the court to be sufficient provided the court finds that the claim of the spouse against property subject to the notice of lis pendens can be satisfied by money damages.

(i) Upon filing an action or motion in the cause requesting an equitable distribution, a party may seek an injunction pursuant to G.S. 1A-1, Rule 65 and G.S. Chapter 1, Article 37.

(j) In any order for the distribution of property made pursuant to this section, the court shall make written findings of fact that support the determination that the marital property has been equitably divided.
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(k) The rights of the parties to an equitable distribution of marital property are a species of common ownership, the rights of the respective parties vesting at the time of the filing of the divorce action."

Sec. 2. G.S. 50-11 is amended by adding new subsections (e) and (f) to read:

"(e) An absolute divorce obtained within this State shall destroy the right of a spouse to an equitable distribution of the marital property under G.S. 50-20 unless the right is asserted prior to judgment of absolute divorce; except, the defendant may bring an action or file a motion in the cause for equitable distribution within six months from the date of the judgment in such a case if service of process upon the defendant was by publication pursuant to G.S. 1A-1, Rule 4 and the defendant failed to appear in the action for divorce.

(f) An absolute divorce by a court that lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of the property shall not destroy the right of a spouse to an equitable distribution of marital property under G.S. 50-20 if an action or motion in the cause is filed within six months of the date of the divorce. The validity of such divorce, which is a prerequisite to equitable distribution, may be attacked in the action for equitable distribution."

Sec. 3. G.S. 52-1 is amended by deleting the phrase "such regulations and limitations as the General Assembly may prescribe" and substituting in lieu thereof the phrase "G.S. 50-20 and such other regulations and limitations as the General Assembly may prescribe".

Sec. 4. G.S. 1-75.4 is amended by adding a new subdivision to read:

"(12) Marital relationship. In any action under G.S. Chapter 50 that arises out of the marital relationship within this State, notwithstanding subsequent departure from the State, if the other party to the marital relationship continues to reside in this State."

Sec. 5. G.S. 7A-244 is amended by adding after the word "divorce" the phrase, "equitable distribution of property".

Sec. 6. G.S. 50 is amended by adding a new section to be numbered G.S. 50-21 and to read as follows:

"§ 50-21. Procedures in actions for an equitable distribution of property. — Upon application of a party to an action for divorce, an equitable distribution of property shall follow a decree of absolute divorce. A party may file a cross action for equitable distribution in a suit for an absolute divorce, or may file a separate action instituted for the purpose of securing an order of equitable distribution, or may file an action or motion in the cause as provided in G.S. 50-11(e) and (f). Nothing in G.S. 50-20 or this section shall restrict or extend the right to trial by jury as provided by the Constitution of North Carolina. The equitable distribution may not precede a decree of absolute divorce. Real or personal property located outside of North Carolina is subject to equitable distribution in accordance with the provisions of G.S. 50-20 and the court may include in its order appropriate provisions to insure compliance with the order of equitable distribution."

Sec. 7. This act shall become effective October 1, 1981, and shall apply only when the action for an absolute divorce is filed on or after that date.

In the General Assembly read three times and ratified, this the 3rd day of July, 1981.
S. B. 546  CHAPTER 816
AN ACT TO REQUIRE THAT ALL ACCIDENT AND HEALTH INSURANCE POLICIES PROVIDE FOR COVERAGE FOR TREATMENT IN STATE TAX-SUPPORTED INSTITUTIONS.

The General Assembly of North Carolina enacts:

Section 1. The first sentence of G.S. 58-251.6(a) is rewritten to read:

“(a) Whenever any policy of insurance governed by this Chapter provides for benefits for charges of hospitals or physicians, the policy shall provide for payments of benefits for charges made for medical care rendered in or by duly licensed State tax-supported institutions, including charges for medical care of cerebral palsy, other orthopedic and crippling disabilities, mental and nervous diseases or disorders, mental retardation, alcoholism and drug or chemical dependency, and respiratory illness, on a basis no less favorable than the basis which would apply had the medical care been rendered in or by any other public or private institution or provider. The term ‘State tax-supported institutions’ shall include community mental health centers and other health clinics which are certified as Medicaid providers.”

Sec. 2. G.S. 58-251.6(c) is rewritten to read:

“(c) The restrictions and regulations of this section shall not apply to any policy which is individually underwritten or provided for a specific individual and the members of his family as a nongroup policy but shall apply to any group policy of insurance governed by this Chapter.”

Sec. 3. This act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 3rd day of July, 1981.

S. B. 552  CHAPTER 817
AN ACT TO AMEND THE BUSINESS OPPORTUNITY SALES LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 66-94 is amended by deleting the words “which are sold to the purchaser” in line 2; by deleting the brackets around the word “neither” in line 4 of subsection (1); by deleting the word “will” in line 1 of subsection (2) and inserting the words “may, in the ordinary course of business,” in lieu thereof; and by rewriting subsection (4) to read as follows:

“(4) That it will provide a sales program or marketing program which will enable the purchaser to derive income from the business opportunity which exceeds the price paid for the business opportunity, provided that this subsection shall not apply to the sale of a marketing program made in conjunction with the licensing of a federally registered trademark or a federally registered service mark, or when the purchaser pays less than fifty dollars ($50.00).”

Sec. 2. G.S. 66-95 is amended by rewriting subsections (2) and (3) to read as follows:

“(2) The names and addresses and titles of the seller’s officers, directors, trustees, general partners, general managers, principal executives, and any other persons charged with responsibility for the seller’s business activities relating to the sale of business opportunities. The disclosure document shall additionally contain a statement disclosing who, if any, of the above persons:

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(a) has been the subject of any legal or administrative proceeding alleging the violation of any business opportunity or franchise law, or fraud, embezzlement, fraudulent conversion, restraint of trade, unfair or deceptive practices, misappropriation of property or comparable allegations;

(b) has been the subject of any bankruptcy, reorganization or receivership proceeding, or was an owner, a principal officer or a general partner of any entity which has been subject to such proceeding.

The disclosure document shall set forth the name of the person, the nature of and the parties to the action or proceeding, the court or other forum, the date, the current status of the action or proceeding, the terms and conditions of any order or decree, the penalties or damages assessed and/or terms of settlement, and any other information to enable the purchaser to assess the prior business activities of the seller.

(3) The prior business experience of the seller relating to business opportunities including:

(a) the name, address, and a description of any business opportunity previously offered by the seller;

(b) the length of time the seller has offered each such business opportunity;

(c) the length of time the seller has conducted the business opportunity currently being offered to the purchaser."

Sec. 3. G.S. 66-97 is amended by deleting the words "a copy" in line 2 of subsection (a) and inserting in lieu thereof the words "two copies"; by inserting a comma following the term "G.S. 66-95" in line 2 of subsection (a) and inserting the following words "accompanied by a fee in the amount of ten dollars ($10.00) made payable to the Secretary of State,"; by deleting the comma and the word "and" following the word "State" in line 4 of subsection (a) and inserting in lieu thereof a period and the words "The seller"; by deleting the language following the period on line 5 of subsection (a) and the language on lines 6 through 9 of subsection (a); by redesignating subsection (b) as subsection (e); and by inserting the following as subsections (b), (c), and (d):

"(b) Every seller shall file, in such form as the Secretary of State may prescribe, an irrevocable consent appointing the Secretary of State or his successors in office to be his attorney to receive service of any lawful process in any noncriminal suit, action or proceeding against the seller or his successor, executor or administrator which arises under this Article after the consent has been filed, with the same force and validity as if served personally on the person filing the consent. Service may be made by leaving a copy of the process in the office of the Secretary of State, but is not effective unless (i) the plaintiff, who may be the Attorney General in a suit, action or proceeding instituted by him, forthwith sends notice of the service and a copy of the process by registered mail to the defendant or respondent at his address on file with the Secretary of State, and (ii) the plaintiff's affidavit of compliance with this section is filed in the case on or before the return date of the process, if any, or within such further time as the court allows.

(c) If the seller of a business opportunity is required by G.S. 66-96 to provide a bond or establish a trust account, he shall file with the Secretary of State two copies of the bond or two copies of the formal notification by the depository that the trust account is established contemporaneously with compliance with subsections (a) or (d).
(d) The Secretary of State may accept the Uniform Franchise Offering Circular (UFOC) or the Federal Trade Commission Basic Disclosure Document, provided, that the alternative disclosure document shall be accompanied by a separate sheet setting forth the caption and statement and any other information required by G.S. 66-95."

Sec. 4. G.S. 66-99 is amended by inserting the words "in addition to the Secretary of State as provided in G.S. 66-95(b)" following the word "process" in line 3 of subsection (b)(3).

Sec. 5. This act shall become effective September 1, 1981, provided that sellers who have filed disclosure documents before September 1, 1981, need not incorporate the changes required by this act until they next update their disclosure document as required by G.S. 66-97(a).

In the General Assembly read three times and ratified, this the 3rd day of July, 1981.

S. B. 582  CHAPTER 818

AN ACT TO REQUIRE THE PURCHASE OF INSURANCE OR THE POSTING OF A CASH BOND BEFORE A PROFESSIONAL HOUSEMOVER'S LICENSE WILL BE ISSUED.

The General Assembly of North Carolina enacts:

Section 1. Article 16 of the General Statutes, Chapter 20, is amended by adding a new section to read:

"§ 20-359.1. Insurance requirements.—(a) No license shall be issued or renewed pursuant to this Article unless the applicant presents to the Department a certificate or certificates of insurance, from an insurance company or companies licensed to do business in this State, providing:

(1) Motor vehicle insurance with minimum coverage of one hundred thousand dollars ($100,000) for bodily injury to or death of one person in any one accident, three hundred thousand dollars ($300,000) for bodily injury to or death of two or more persons in any one accident, and fifty thousand dollars ($50,000) for injury to or destruction of property of others in any one accident;

(2) Comprehensive general liability insurance with a minimum coverage of three hundred fifty thousand dollars ($350,000) combined single limit of liability; and

(3) Worker's Compensation insurance that complies with General Statutes Chapter 97 if the person licensed as a professional housemover is not exempt from that Chapter.

(b) The certificate or certificates shall provide for continuous coverage during the effective period of the license issued pursuant to this Article.

(c) The Department shall be notified by the person licensed as a professional housemover of and 30 days prior to any cancellation or changes made to any provision of the insurance required by subsection (a) of this section.

(d) In lieu of the insurance certificate or certificates required by subsection (a) of this section, the applicant may post with the Department a cash bond or other acceptable surety in the amount of fifty thousand dollars ($50,000) for the benefit of any person filing a claim for personal injury, death, or property damage arising from the movement of a structure pursuant to this Article."
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Sec. 2. G.S. 20-360(c) is amended by adding the following phrase after the word “buildings” and before the semicolon:

“from or to property owned individually by those persons”.

Sec. 3. G.S. 20-358(2) is repealed.

Sec. 4. This act shall become effective August 1, 1981.

In the General Assembly read three times and ratified, this the 3rd day of July, 1981.

S. B. 583  CHAPTER 819

AN ACT TO TAX LESSEES AND USERS OF CROPLAND OR FORESTLAND OWNED BY THE UNITED STATES, THE STATE OR ITS POLITICAL SUBDIVISIONS AND USED BY THE LESSEE OR USER IN CONNECTION WITH A BUSINESS CONDUCTED FOR PROFIT.

The General Assembly of North Carolina enacts:

Section 1. Subchapter II of Chapter 105 is amended by adding a new Article, 12A, to read:

“ARTICLE 12A.

“Taxation of Lessees and Users of Tax-Exempt Cropland or Forestland.

“§ 105-282.2. Taxation of lessees and users of tax-exempt cropland or forestland.—(a) When any cropland or forestland owned by the United States, the State, a county or a municipal corporation is leased, loaned or otherwise made available to and used by a person, as defined in G.S. 105-273(12), in connection with a business conducted for profit, the lessee or user of the property is subject to taxation to the same extent as if the lessee or user owned the property. As used in this section, ‘forestland’ has the same meaning as in G.S. 105-277.2(2), and ‘cropland’ means agricultural land and horticultural land as defined in G.S. 105-277.2(1) and (3) respectively.

(b) This section does not apply to cropland or forestland for which payments in lieu of taxes are made in amounts equivalent to the amount of tax that could otherwise be lawfully assessed.

(c) Taxes levied pursuant to this Article are levied on the privilege of leasing or otherwise using tax-exempt cropland or forestland in connection with a business conducted for profit. The purpose of these taxes is to eliminate the competitive advantage accruing to profit-making enterprises from the use of tax-exempt property.

“§ 105-282.3. Assessment and collection.—The taxes levied under this Article shall be assessed to the lessee or user of the exempt property and shall be collected in the same manner and to the extent as if the lessee or user owned the property. The taxes are a debt due from the lessee or user to the taxing unit in which the property is located and are recoverable as other actions to collect a debt.”

Sec. 2. G.S. 105-279 is repealed.

Sec. 3. This act shall become effective for taxable years beginning on and after January 1, 1982.

In the General Assembly read three times and ratified, this the 3rd day of July, 1981.

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S. B. 622  

CHAPTER 820

AN ACT TO ALLOW SANITARY DISTRICTS TO PROVIDE RESCUE SERVICES, AND LEVY A TAX THEREFOR.

Whereas, cities, counties, fire districts, and sanitary districts are all authorized to provide fire protection; and
Whereas, G.S. 160A-209(c)(4) authorizes cities to fund rescue squads; and
Whereas, G.S. 153A-149(c)(5) authorizes counties to fund rescue squads; and
Whereas, G.S. 69-25.4, as amended by Chapter 217, Session Laws of 1981, allows fire districts to fund rescue squads; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-128 is amended by adding a new subsection to read:

"(13a). To provide rescue services, defined as to establish a rescue squad, to provide ambulance service, rescue service, or other emergency medical services, or to contract with cities, counties, other governmental units, or any incorporated nonprofit volunteer or community rescue squad to furnish such service for use in the district. The sanitary district shall be subject to G.S. 153A-250."

Sec. 2. G.S. 130-128(14) is amended by inserting in each place after "fire protection", the words "or rescue services".

Sec. 3. G.S. 130-128(15) is amended by adding after the words "fire protection", the words "and rescue services".

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of July, 1981.

S. B. 313  

CHAPTER 821

AN ACT TO ESTABLISH SENATORIAL DISTRICTS AND TO APPORTION SEATS IN THE SENATE AMONG DISTRICTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 120-1 is hereby deleted and the following inserted in lieu thereof:

"§ 120-1. Senators.—For the purpose of nominating and electing members of the Senate in 1982 and every two years thereafter, senatorial districts are established and seats in the Senate are apportioned among those districts as follows:
District 1 shall consist of Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Gates, Hertford, Hyde, Northampton, Pasquotank, Perquimans, Tyrrell, and Washington Counties and shall elect two Senators.
District 2 shall consist of Carteret, Craven, and Pamlico Counties and shall elect one Senator.
District 3 shall consist of Onslow County and shall elect one Senator.
District 4 shall consist of New Hanover and Pender Counties and shall elect one Senator.
District 5 shall consist of Duplin, Jones, and Lenoir Counties and shall elect one Senator.
District 6 shall consist of Edgecombe and Halifax Counties and shall elect one Senator.

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District 7 shall consist of Martin and Pitt Counties and shall elect one Senator.
District 8 shall consist of Franklin, Nash, Vance, Warren, and Wilson Counties and shall elect two Senators.
District 9 shall consist of Greene and Wayne Counties and shall elect one Senator.
District 10 shall consist of Johnston and Sampson Counties and shall elect one Senator.
District 11 shall consist of Cumberland County and shall elect two Senators.
District 12 shall consist of Bladen, Brunswick, and Columbus Counties and shall elect one Senator.
District 13 shall consist of Hoke and Robeson Counties and shall elect one Senator.
District 14 shall consist of Durham, Granville, and Person Counties and shall elect two Senators.
District 15 shall consist of Harnett, Lee and Wake Counties and shall elect three Senators.
District 16 shall consist of Alleghany, Ashe, Surry and Watauga Counties and shall elect one Senator.
District 17 shall consist of Rockingham and Stokes Counties and shall elect one Senator.
District 18 shall consist of Chatham, Moore, Orange, and Randolph Counties and shall elect two Senators.
District 19 shall consist of Anson, Montgomery, Richmond, Scotland, Stanly, and Union Counties and shall elect two Senators.
District 20 shall consist of Alamance and Caswell Counties and shall elect one Senator.
District 21 shall consist of Forsyth County and shall elect two Senators.
District 22 shall consist of Guilford County and shall elect three Senators.
District 23 shall consist of Davidson, Davie, and Rowan Counties and shall elect two Senators.
District 24 shall consist of Cabarrus and Mecklenburg Counties and shall elect four Senators.
District 25 shall consist of Alexander, Catawba, Iredell, and Yadkin Counties and shall elect two Senators.
District 26 shall consist of Avery, Burke, Caldwell, Mitchell, and Wilkes Counties and shall elect two Senators.
District 27 shall consist of Cleveland, Gaston, Lincoln, and Rutherford Counties and shall elect three Senators.
District 28 shall consist of Buncombe, Madison, McDowell, and Yancey Counties and shall elect two Senators.
District 29 shall consist of Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Polk, Swain, and Transylvania Counties and shall elect two Senators.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of July, 1981.
H. B. 775  CHAPTER 822
AN ACT TO PROHIBIT ASSAULTS AND THREATS AGAINST GENERAL CIVIL EXECUTIVE OFFICERS OR AGAINST MEMBERS OF THE GENERAL ASSEMBLY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 14 of the North Carolina General Statutes is amended to add a new Article 5A to read as follows:

"ARTICLE 5A.

"Endangering Executive Officers, the Speaker of the House, and the President Pro Tempore of the Senate.

"§ 14-16.1. Assault on executive officer, the Speaker of the House, or the President Pro Tempore of the Senate.—(a) Any person who assaults any legislative officer named in G.S. 147-2(1), (2), or (3) or any executive officer named in G.S. 147-3(c), or any person who makes a violent attack upon the residence, office, temporary accommodation or means of transport of any legislative officer named in G.S. 147-2(1), (2), or (3) or any executive officer named in G.S. 147-3(c) in a manner likely to endanger such legislative officer or executive officer, shall be guilty of a felony and shall be punished as a Class H felon.

(b) Any person who commits an offense under subsection (a) and uses a deadly weapon in the commission of that offense shall be punished as a Class G felon.

(c) Any person who commits an offense under subsection (a) and inflicts serious bodily injury to any legislative officer named in G.S. 147-2(1), (2), or (3) or any executive officer as named in G.S. 147-3(c) shall be punished as a Class F felon.

"§ 14-16.2. Threats against public officials.—(a) Any person who knowingly and willfully makes any threat to inflict serious bodily injury upon or to kill any legislative officer named in G.S. 147-2(1), (2), or (3) or any executive official as named in G.S. 147-3(c), shall be guilty of a felony and shall be punished as a Class J felon.

(b) Any person who knowingly and willfully deposits for conveyance in the mail any letter, writing, or other document containing a threat to inflict serious bodily injury upon or to kill any legislative officer named in G.S. 147-2(1), (2), or (3) or any executive official named in G.S. 147-3(c), shall be guilty of a felony and shall be punished as a Class J felon.

"§ 14-16.3. No requirement of receipt of the threat.—In prosecutions under Section 14-16.2 of this Article it shall not be necessary to prove that any legislative officer named in G.S. 147-2(1), (2), or (3) or any executive official as named in G.S. 147-3(c) actually received the threatening communication or actually believed the threat.

"§ 14-16.4. Officers-elect to be covered.—Any person who has been elected to any office covered by this Article but has not yet taken the oath of office shall be considered to hold the office for the purpose of this Article and G.S. 114-15."

Sec. 2. The last sentence of the first paragraph of G.S. 114-15 of the General Statutes is amended to read:

"The State Bureau of Investigation is hereby authorized to investigate without request the attempted arson of, or arson of, damage of, theft from, or theft of, or misuse of, any State-owned personal property, buildings, or other real property or any assault upon or threats against any legislative officer
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named in G.S. 147-2(1), (2), or (3) or any executive officer named in G.S. 147-3(c)."

Sec. 3. This act is effective upon ratification.
    In the General Assembly read three times and ratified, this the 3rd day of July, 1981.

S. B. 739    CHAPTER 823
AN ACT CONCERNING THE POWER OF CITIES TO REQUIRE HOOKUPS TO LEASED WATER AND SEWER LINES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-317 is amended by deleting the word "owned" and inserting in lieu thereof the words "owned or leased,"

Sec. 2. This act is effective upon ratification.
    In the General Assembly read three times and ratified, this the 7th day of July, 1981.

H. B. 286    CHAPTER 824
AN ACT TO AMEND CHAPTER 90, ARTICLE 16, OF THE GENERAL STATUTES RELATING TO DENTAL HYGIENISTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-221 is amended by adding a new section (f) as follows:
    "(f) 'Supervision' as used in this Article shall mean that acts are deemed to be under the supervision of a licensed dentist when performed in a locale where a licensed dentist is physically present during the performance of such acts and such acts are being performed pursuant to the dentist's order, control and approval."

Sec. 2. G.S. 90-233 is amended by rewriting subsection (a) to read as follows:
    "(a) A dental hygienist may practice only under the supervision of one or more licensed dentists. Provided, however, that this subsection (a) shall be deemed to be complied with in the case of dental hygienists employed by the Department of Human Resources and especially trained by said Department as public health hygienists while performing their duties in the public schools under the direction of a duly licensed dentist."

Sec. 3. G.S. 90-233 is amended by rewriting subsection (b) to read as follows:
    "(b) A dentist in private practice may not employ more than two dental hygienists at one and the same time who are employed in clinical dental hygiene positions."

Sec. 4. G.S. 143-34.12 is amended by deleting line 12 which reads as follows:
    "Chapter 90, Article 16, entitled 'Dental Hygiene Act',"

Sec. 5. This act is effective upon ratification.
    In the General Assembly read three times and ratified, this the 7th day of July, 1981.
CHAPTER 825
AN ACT TO PROVIDE THAT THE GUILFORD COUNTY BOARD OF EDUCATION SHALL BE ELECTED ON THE NONPARTISAN PRIMARY AND ELECTION METHOD.

The General Assembly of North Carolina enacts:

Section 1. Chapter 296, Session Laws of 1977, is amended by adding a new section to read:

"Sec. 3.1. The election shall be held under the nonpartisan primary method and the results determined in accordance with G.S. 163-294. The primary, if necessary, shall be held on the same date as the primary provided in G.S. 163-1(b). The election shall be held at the time of the general election in November. Candidates for the office of member of the Guilford County Board of Education shall file a notice of candidacy without indicating party affiliation and shall pay a filing fee of five dollars ($5.00), during the period prescribed for county officers in G.S. 163-106(c)."

Sec. 2. Section 4 of Chapter 282, Session Laws of 1975, is repealed.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of July, 1981.

CHAPTER 826
AN ACT TO PROVIDE THAT A PERSON MAY OBTAIN A CARTWAY IF NO PUBLIC ROAD OR RAILROAD AFFORDS ACCESS TO LAND.

The General Assembly of North Carolina enacts:

Section 1. The first sentence of G.S. 136-69 is amended by inserting between the words "transportation" and "affording" the phrase ", other than a navigable waterway, ".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of July, 1981.

CHAPTER 827
AN ACT TO AMEND G.S. 160A-17.1 TO AUTHORIZE LOCAL GOVERNMENTS TO COMPLY WITH MINORITY BUSINESS ENTERPRISE REQUIREMENTS OF GRANT PROGRAMS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-17.1 is amended by renumbering the present subsections and inserting the following new subsection "3":

"(3) Agree to and comply with minimum minority business enterprise participation requirements established by the federal government and its agencies in projects financed by federal grants-in-aid or loans, by including such minimum requirements in the specifications for contracts to perform all or part of such projects and awarding bids pursuant to G.S. 143-129 and 143-131, if applicable, to the lowest responsible bidder or bidders meeting these and any other specifications."

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 7th day of July, 1981.

H. B. 1316

CHAPTER 828

AN ACT TO PROHIBIT THE TAKING OF BEARS IN BLADEN COUNTY BY THE USE OF BAIT.

The General Assembly of North Carolina enacts:

Section 1. It shall be unlawful to hunt bears in Bladen County over or by the use or aid of any salt, salt lick, grain, fruit, honey, sugar-based material, animal parts or products, or any other bait whatsoever which is placed or deposited so as to attract or concentrate bears.

Sec. 2. Penalties for violation of this act shall be a fine of not less than two hundred fifty dollars ($250.00) in addition to such other punishment that may be imposed in the discretion of the court.

Sec. 3. This act shall apply only to Bladen County.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of July, 1981.

H. B. 1320

CHAPTER 829

AN ACT TO ABOLISH THE OFFICE OF CORONER IN RICHMOND COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Effective upon the expiration of the current term of office, December 6, 1982, the Office of Coroner in Richmond County is abolished.

Sec. 2. Chapter 152 of the General Statutes is not applicable to Richmond County.

Sec. 3. This act shall become effective December 6, 1982.

In the General Assembly read three times and ratified, this the 7th day of July, 1981.

H. B. 1351

CHAPTER 830

AN ACT CONCERNING FILLING VACANCIES IN OFFICE IN AVERY COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 14 of Chapter 763, Session Laws of 1981, is amended by inserting immediately after the word "Alleghany" the word "Avery".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of July, 1981.
H. B. 319  CHAPTER 831
AN ACT TO AUTHORIZE BOARDS OF ELECTIONS TO HOLD EXECUTIVE SESSIONS AFTER PUBLIC HEARINGS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-318.11(a) is amended by adding a new subsection at the end to read:
“(19) To plan investigations and receive investigative reports requested by a board of elections concerning election frauds, irregularities, election contests, or violations of the election laws. Following a public hearing during which it is alleged or apparent that any election official may have committed an act of misconduct, a board of elections may meet in executive session to deliberate, adjudicate, and reach its decision on whether further action shall be ordered or whether no further action shall be ordered against any election official. Each member’s vote on the decision shall be a matter of public record.”

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 7th day of July, 1981.

H. B. 1299  CHAPTER 832
AN ACT TO EXEMPT INVESTIGATIONS OF APPLICANTS TO THE STATE BAR FROM THE FEE THE STATE BUREAU OF INVESTIGATION IS REQUIRED TO CHARGE FOR FURNISHING CERTAIN INFORMATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 114-19.1 is amended by changing the period at the end of the second paragraph to a comma and adding the following after that comma: “or as an officer of the court.”

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 7th day of July, 1981.

S. B. 532  CHAPTER 833
AN ACT TO CLARIFY REQUIREMENTS FOR LICENSURE OF DOMICILIARY HOMES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-9(e) is amended by rewriting subdivisions (4), (5) and (6) to read:
“(4) Domiciliary Home Distinguished. A domiciliary home, as distinguished from a nursing home, is a place for the care of aged or disabled persons whose principal need is a home with the sheltered and custodial care their age or disabilities require. Domiciliary homes exist to provide this care in a residential setting and on a long-term basis. In these homes, medical care is only occasional or incidental, such as may be required in the home of any individual or family for persons who are aged or disabled, but the administration of medication is supervised. The residents of these homes will not, as a rule, have remedial ailments or other ailments for which continuing, skilled, planned medical and nursing care is indicated. The resident, however, may receive continuing,
planned medical and nursing care if it is provided under the direct supervision of a physician, nurse, or home health agency and meets the resident's medical needs. A major factor which distinguishes these homes is that residents may be given congregate services as distinguished from the individual medical care required for patients in nursing homes.

(5) Operation of Nursing Home and Domiciliary Homes. Any person may operate a nursing home, as defined in subdivision (2) of this subsection, and a domiciliary home, as defined in subdivision (4) of this subsection, in the same building or in two or more buildings adjoining or next to each other on the same site. A facility containing both a nursing home and a domiciliary portion must be licensed by the Department of Human Resources. The Medical Care Commission, upon consultation with the Social Services Commission, shall adopt standards, rules and regulations for the operation of these domiciliary homes that are equal to the standards, rules and regulations adopted by the Social Services Commission for the operation of freestanding domiciliary homes. The domiciliary portion of a combination home in existence at the time of the effective date of this act shall be exempt from physical plant minimum standards, unless the Department determines any such exemption to be an imminent hazard to health, safety and welfare of the residents. Any existing combination home shall have until January 1, 1983, to comply with all other standards, rules and regulations in effect January 1, 1982.

(6) Evaluation of Residents in Domiciliary Homes. The Department of Human Resources shall prescribe the method of evaluation of residents in domiciliary homes in order to determine when any of these residents are in need of professional medical and nursing care as provided in licensed nursing homes."

Sec. 2. This act shall become effective January 1, 1982.

In the General Assembly read three times and ratified, this the 7th day of July, 1981.

S. B. 617

CHAPTER 834

AN ACT TO PROVIDE CHANGES IN THE VALUATION AND NONFORFEITURE STANDARDS OF THE BENEFIT CERTIFICATES OF FRATERNAL BENEFIT SOCIETIES AND TO DELETE THE FIVE THOUSAND DOLLAR NONMEDICAL EXAMINATION LIMITATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-273(d) is amended by deleting the words "when valued for death benefits upon the basis of the National Fraternal Congress Table of Mortality, as adopted by the National Fraternal Congress August 23, 1899, or any higher standard at the option of the Society, and for disability benefits by tables based upon reliable experience, and for combined death and permanent total disability benefits by tables based upon reliable experience, with interest assumption not higher than four percent (4%) per annum", substituting the words "according to mortality, morbidity, and interest standards permitted by the laws of this State for use by life insurance companies".

Sec. 2. G.S. 58-280(b) is amended by inserting immediately after the words "four percent (4%) interest" the words "or by such mortality, morbidity,
and interest standards permitted by the laws of this State for use by life insurance companies”.

Sec. 3. The first sentence of G.S. 58-284 is amended by adding after the words “or some higher standard” the words “or upon such mortality, morbidity, and interest standards permitted by the laws of this State for use by life insurance companies” and by substituting a period for the semicolon following the word “society” and deleting the remainder of the sentence.

Sec. 4. G.S. 58-285(a) is amended by replacing the final period with a semicolon and by adding the following words: “provided, however, that any society may value its certificates in accordance with such mortality, morbidity, and interest standards permitted by the laws of this State for use by life insurance companies.”

Sec. 5. G.S. 58-292(c) is amended by replacing the final period with a semicolon and by adding: “not withstanding the foregoing a society may value its certificates in accordance with such mortality, morbidity, and interest standards permitted by the laws of this State for use by life insurance companies.”

Sec. 6. The second paragraph of G.S. 58-308 is amended by deleting the words “by a table of mortality, not lower than the American Experience Table of Mortality, with an interest assumption of not more than four percent (4%)” and by substituting the words: “by such mortality, morbidity, and interest standards permitted by the laws of this State for use by life insurance companies.”

Sec. 7. G.S. 58-309 is amended by deleting the words “or upon a higher standard” and substituting the words: “upon a higher standard or upon such mortality, morbidity, and interest standards permitted by the laws of this State for use by life insurance companies.”

Sec. 8. This act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 7th day of July, 1981.

S. B. 636

CHAPTER 835

AN ACT TO CLARIFY G.S. 105-277.4(c) WITH REGARD TO PAYMENT OF PROPERTY TAXES UPON DISQUALIFICATION OF LAND USED FOR AGRICULTURAL OR HORTICULTURAL PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-277.4(c) is amended in line 25 by substituting the word, “three” for the word, “five”.

Sec. 2. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 7th day of July, 1981.
S. B. 699

CHAPTER 836
AN ACT TO AMEND THE STRUCTURAL PEST CONTROL ACT TO CLARIFY THE JURISDICTION OF THE SUPERIOR AND DISTRICT COURTS FOR VIOLATIONS OF THE ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-65.39 is rewritten as follows:

"The commissioner may apply to either the superior or district court for an injunction to prevent and restrain violations of this Article and the rules and regulations adopted under this Article, provided however, that the district court shall have original jurisdiction to hear and determine alleged misdemeanor violations of the Article and the rules and regulations of the committee."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of July, 1981.

S. B. 707

CHAPTER 837
AN ACT TO PROVIDE A SIMPLIFIED CAMPAIGN FINANCE REPORTING SYSTEM FOR MUNICIPALITIES WITH A POPULATION OF 50,000 OR OVER.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-278.6(19) is amended by adding immediately after "G.S. 163-278.7" the citation "or G.S. 163-278.40A".

Sec. 2. G.S. 163-278.9(d) is rewritten to read:

"(d) Candidates and committees for municipal offices in a city with a population of 50,000 or greater, which are required to submit reports by G.S. 163-278.6(18) are not subject to subsections (a) (b) and (c) of this section. Reports for those candidates and committees are covered by Part 2 of this Article."

Sec. 3. Article 22A of Chapter 163 of the General Statutes is amended by redesignating the current text as Part 1 and adding a new Part 2 to read:


§163-278.40. Definitions.—When used in this Part, words and phrases have the same meaning as in G.S. 163-278.6, except that:

(1) the term 'board' means the county board of elections;

(2) the term 'city' means any incorporated city, town, or village with a population of 50,000 or over, according to the most recent decennial federal census.

§163-278.40A. Organizational report.—(a) Each candidate and political committee in a city election shall appoint a treasurer and, under verification, report the name and address of the treasurer to the board. A candidate may appoint himself or any other individual, including any relative except his spouse, as his treasurer. If the candidate fails to designate a treasurer, the candidate shall be deemed to have appointed himself as treasurer. A candidate or political committee may remove his or its treasurer.

(b) The organizational report shall state the bank account and number of such campaign fund. Each report required by this Part shall reflect all contributions, expenditures and loans made in behalf of a candidate. The organizational report shall be filed with the County Board of Elections within
10 days after the candidate files a notice of candidacy with the County Board of Elections, or within 10 days following the organization of the political committee, whichever occurs first.

"§ 163-278.40B. Campaign report; partisan election.—In any city election conducted on a partisan basis in accordance with G.S. 163-279(a)(2) and G.S. 163-291, the following reports shall be filed in addition to the organizational report:
(1) Pre-primary report. The treasurer shall file a report with the board no later than the tenth day preceding each primary election.
(2) Pre-election report. The treasurer shall file a report 10 days prior to the election, unless a second primary is held and the candidate appeared on the ballot in the second primary, in which case the report shall be filed 10 days before the second primary.
(3) Final report. The treasurer shall file a final report 15 days after the election. A candidate eliminated in the first or second primary must file the final report no later than 15 days after that primary.
(4) Annual report. If contributions are received or expenditures made during a calendar year, for which no reports are otherwise required by this section, any and all contributions and expenditures shall be reported by January 7 of the following year.

"§ 163-278.40C. Campaign report; nonpartisan election and runoff.—If any city election conducted under the nonpartisan election and runoff basis in accordance with G.S. 163-279(a)(4) and G.S. 163-293, the following reports shall be filed in addition to the organizational report:
(1) Pre-election report. The treasurer shall file a report with the board no later than 10 days prior to the election.
(2) Final report. The treasurer shall file a final report 15 days after the election, unless the candidate is in a runoff, in which case the report shall be filed 15 days after the runoff.
(3) Annual report. If contributions are received or expenditures made during a calendar year, for which no reports are otherwise required by this section, any and all such contributions and expenditures shall be reported by January 7 of the following year.

"§ 163-278.40D. Campaign report; nonpartisan primary and elections.—In any city election conducted under the nonpartisan primary method in accordance with G.S. 163-279(a)(3) and G.S. 163-294, the following reports shall be filed in addition to the organizational report:
(1) Pre-primary report. The treasurer shall file a report 10 days prior to the primary if the candidate is in a primary or 10 days prior to the election, if the candidate is not in a primary.
(2) Final report. The treasurer shall file a final report 15 days after the election, unless the candidate was eliminated in a primary in which case the report shall be filed 15 days after the primary.
(3) Annual report. If contributions are received or expenditures made during a calendar year, for which no reports are otherwise required by this section, any and all contributions and expenditures shall be reported by January 7 of the following year.

"§ 163-278.40E. Campaign report; nonpartisan plurality.—In any city election conducted under the nonpartisan plurality method under G.S. 163-279(a)(1) and
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G.S. 163-292, the following reports shall be filed in addition to the organizational report:

(1) Pre-election report. The treasurer shall file a report 10 days prior to the election.

(2) Final report. The candidate shall file a final report 15 days after the election.

(3) Annual report. If contributions are received or expenditures made during a calendar year, for which no reports are otherwise required by this section, any and all such contributions and expenditures shall be reported by January 7 of the following year.

§ 163-278.40F. Form of report.—Forms of reports under this Part shall be prescribed by the board.

§ 163-278.40G. Content.—Except as otherwise provided in this Part, each report shall be current within seven days prior to the date the report is due and shall list all contributions received and expenditures made which have not been previously reported.

§ 163-278.40H. Notice of reports due.—The supervisor of the board shall advise, or cause to be advised, no less than five days nor more than 15 days before each report is due each candidate or treasurer whose organizational report has been filed under G.S. 163-278.40A of the specific date each report is due. He shall immediately notify any individual, candidate, treasurer, or political committee, to file a statement under this Part if:

(1) It appears that the individual, candidate, treasurer, or political committee has failed to file a statement as required by law or that a statement filed does not conform to this Part; or

(2) A written complaint is filed under oath with the board by any registered voter of this State alleging that a statement filed with the board does not conform to this Part or to the truth or that an individual, candidate, treasurer, or political committee has failed to file a statement required by this Part.

§ 163-278.40I. Part 1 to apply.—(a) Except as provided in this Part or in G.S. 163-278.9(d), the provisions of Part 1 shall apply to municipal elections covered by this Part.

(b) G.S. 163-278.7, G.S. 163-278.9(a), (b) and (c), G.S. 163-278.22(1) and (9), the first paragraph of G.S. 163-278.23, G.S. 163-278.24, G.S. 163-278.25, and G.S. 163-278.26 shall not apply to this Part.

Sec. 4. G.S. 163-278.27(a) is amended by deleting “or G.S. 163-278.18” and inserting “G.S. 163-278.18, G.S. 163-278.40A, G.S. 163-278.40B, G.S. 163-278.40C, G.S. 163-278.40D or G.S. 163-278.40E”.

Sec. 5. This act shall become effective with respect to primaries and elections occurring on or after September 1, 1981.

In the General Assembly read three times and ratified, this the 7th day of July, 1981.
S. B. 630  
CHAPTER 838
AN ACT TO AMEND THE MECKLENBURG COUNTY SALES AND USE TAX ACT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 1096 of the 1967 Session Laws is hereby amended by adding a new Section 10.1, which shall read as follows:

"Sec. 10.1. Amendment of levy.—(a) Purpose and Intent. It is the purpose of this section to provide a way for the qualified voters of Mecklenburg County to determine by special election whether to delete from Chapter 1096 of the 1967 Session Laws the provision that 'the maximum amount of additional tax imposed by this act on one sale shall be ten dollars ($10.00)', and to make the use tax provisions of the Mecklenburg County Sales and Use Tax Act consistent with the use tax provisions of the Local Government Sales and Use Tax Act.

(b) County Election as to Amendment of Mecklenburg County Sales and Use Tax Act. The Board of Elections of Mecklenburg County, upon the written request of the Mecklenburg County Board of Commissioners, or upon receipt of a petition signed by qualified voters of Mecklenburg County equal in number to at least fifteen percent (15%) of the total number of votes cast in the county at the last preceding election for the office of Governor, shall call a special election for the purpose of submitting to the voters of the county the question of whether the one percent (1%) sales and use tax authorized by Chapter 1096 of the 1967 Session Laws, adopted by election held on November 13, 1967, and levied effective March 1, 1968, will be amended as hereinafter provided and, as amended, levied.

The special election shall be held under the same rules and regulations applicable to the election of members of the General Assembly. A new registration of voters is not required and all qualified voters who are properly registered prior to the special election shall be entitled to vote at said election. The Mecklenburg County Board of Elections shall give public notice prior to the closing of the registration books for the special election, as required by G.S. 163-33(8).

The Mecklenburg County Board of Elections shall prepare ballots for the special election which shall contain the words, 'FOR amending the one percent (1%) Mecklenburg County Sales and Use Tax Act to delete the ten dollar ($10.00) maximum sales and use tax per sale and to make the use tax provisions of the Mecklenburg County Sales and Use Tax Act consistent with the use tax provisions of the Local Government Sales and Use Tax Act', and the words, 'AGAINST amending the one percent (1%) Mecklenburg County Sales and Use Tax Act to delete the ten dollar ($10.00) maximum sales and use tax per sale and to make the use tax provisions of the Mecklenburg County Sales and Use Tax Act consistent with the use tax provisions of the Local Government Sales and Use Tax Act', with appropriate squares so that each voter may designate by his cross (X) mark his preference.

The Mecklenburg County Board of Elections shall fix the date of the special election; provided, however, that the special election shall not be held on the day of any biennial election for county officers, nor within 60 days thereof.

(c) Effective Date of Amended Tax After Special Election Authorizing Levy. In the event a majority of those voting in a special election held under this section shall approve the amendment of the Mecklenburg County Sales and Use Tax Act...
Tax Act, and the levy of the sales and use tax pursuant to the act, as amended, the Mecklenburg County Board of Elections shall immediately send a certified statement of the results of the special election to the Secretary of Revenue.

The Mecklenburg County sales and use tax being levied on the date of the special election shall continue to be levied, administered and collected until the last day of the next succeeding calendar month after the date the Secretary of Revenue receives the certified statement from the Mecklenburg County Board of Elections of the results of the special election, after which date it shall no longer be levied.

The Mecklenburg County sales and use tax authorized to be levied pursuant to the Mecklenburg County Sales and Use Tax Act as amended by subsections (d) through (g) of this section shall be imposed on the first day of the second succeeding calendar month after the Secretary of Revenue receives the certified statement of the results of the special election (this day being also described as being the day next following the day the Mecklenburg County sales and use tax being levied on the date of the special election shall cease to be levied).

No liability for the Mecklenburg County sales and use tax being levied on the date of the special election which shall have attached prior to the effective date on which the levy is terminated shall be discharged as a result of such termination, and no right to a refund of tax or otherwise, which shall have accrued prior to the effective date on which the levy is terminated, shall be denied.

In the event a majority of those voting in the special election held under this section do not vote for the amendment, the Mecklenburg County sales and use tax being levied on the date of the special election shall continue to be levied, administered and collected as authorized by Chapter 1096 of the 1967 Session Laws.

(d) Amended Sales Tax Imposed; Items on Which the State Now Imposes a Three Percent (3%) Sales Tax. In the event a majority of those voting in the special election shall approve the amendment of the Mecklenburg County Sales and Use Tax Act, Section 4 of Chapter 1096 of the 1967 Session Laws shall remain in effect and shall govern the levy of the Mecklenburg County sales and use tax, as amended, except that the last sentence of Section 4 thereof, which reads as follows, is repealed and shall have no effect on the levy of the amended Mecklenburg County sales and use tax, from and after its effective date: “The maximum amount of additional tax imposed by this act on one sale shall be ten dollars ($10.00).”

(e) Amended Use Tax Imposed; Limited to Items Upon Which the State Now Imposes a Use Tax Under G.S. 105-164.6. In the event a majority of those voting in the special election shall approve the amendment of the Mecklenburg County Sales and Use Tax Act, Section 5 of Chapter 1096, Session Laws of 1967, as amended by Section 3 of Chapter 1100, Session Laws of 1979 is rewritten in its entirety, to read as follows:

‘Sec. 5. The use tax which Mecklenburg County may impose under this division shall be at the rate of one percent (1%) of the cost price of each item or article of tangible personal property when the same is not sold but used, consumed or stored for use or consumption in Mecklenburg County, except that no tax shall be imposed upon such tangible personal property when, if the property were subject to the use tax imposed by G.S. 105-164.6, such property
would be taxed by the State of North Carolina at a rate less than three percent (3%).

Every retailer engaged in business in this State and in Mecklenburg County and required to collect the use tax levied by G.S. 105-164.6 shall also collect the one percent (1%) use tax when such property is to be used, consumed or stored in said county, said one percent (1%) use tax to be collected concurrently with the State's use tax; but no retailer not required to collect the use tax levied by G.S. 105-164.6 shall be required to collect the one percent (1%) use tax. The use tax contemplated by this section shall be levied against the purchaser, and his liability for such use tax shall be extinguished only upon his payment of the use tax to the retailer, where the retailer is required to collect the tax, or to the Secretary of Revenue, where the retailer is not required to collect the tax.

Where a local sales or use tax has been paid with respect to said tangible personal property by the purchaser thereof, either in another taxing county within the State, or in a taxing jurisdiction outside the State where the purpose of the tax is similar in purpose and intent to the tax which may be imposed pursuant to this section, said tax may be credited against the tax imposed by this section by Mecklenburg County upon the same property. If the amount of sales or use tax so paid is less than the amount of the use tax due Mecklenburg County under this section, the purchaser shall pay to the Secretary of Revenue an amount equal to the difference between the amount so paid in the other taxing county or jurisdiction and the amount due in Mecklenburg County hereunder. The Secretary of Revenue may require such proof of payment in another taxing county or jurisdiction as is deemed to be necessary and proper. The use tax levied hereunder shall not be subject to credit for payment of any State sales or use tax not imposed for the benefit and use of counties and municipalities. No credit shall be given under this section for sales or use taxes paid in a taxing jurisdiction outside this State if that taxing jurisdiction does not grant similar credit for sales taxes paid under this act.'

The purpose of this amendment to Section 5 of Chapter 1096 of the 1967 Session Laws is to make the imposition of the one percent (1%) use tax in Mecklenburg County the same as in all counties in the State which have imposed a sales and use tax pursuant to Article 39, Subchapter VIII of Chapter 105 of the General Statutes.

(1) Retail Bracket System; Application to Mecklenburg County Sales and Use Tax. In the event a majority of those voting in the special election shall approve the amendment of the Mecklenburg County Sales and Use Tax Act, Section 7 of said act shall remain in effect and shall govern the levy of the Mecklenburg County sales and use tax, as amended, except that the last sentence of Section 7, which reads as follows, is repealed and shall have no effect on the levy of the amended Mecklenburg County sales and use tax: 'The maximum amount of additional tax imposed by the act on one sale shall be ten dollars ($10.00).'

(g) Remaining Portions of Chapter 1096 of the 1967 Session Laws to Remain in Effect. In the event a majority of those voting in the special election shall approve the amendment of the Mecklenburg County Sales and Use Tax Act, the Mecklenburg County sales and use tax, as amended, shall be levied, administered and collected as set forth in Chapter 1096 of the 1967 Session Laws, except as hereinabove provided."
Sec. 2. Limit on Frequency of Special Elections. Only one special election can be held in any 12-month period pursuant to the provisions of Section 1 of this act.

Sec. 3. The provisions of Section 1 of this act shall not be applicable with respect to any building materials purchased for the purpose of fulfilling any lump-sum or unit price contract entered into or awarded, or entered into or awarded pursuant to any bid made, before the effective date of the tax imposed pursuant to such section when, absent the provisions of this section, such building materials would otherwise be subject to a greater amount of tax under the provisions of Section 1 of this act than they would have been had that section not become effective.

Sec. 4. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect the provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of July, 1981.

H. B. 96

CHAPTER 839

AN ACT TO AMEND G.S. 20-24 CONCERNING REPORTS OF CONVICTIONS SENT TO THE DIVISION OF MOTOR VEHICLES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-24 is hereby amended by adding a new subsection (b1) to read as follows:

"(b1) In any case where the record of conviction for any reason has been received by the division for more than one year after the date of the final conviction, the division may, in its discretion, substitute a period of probation for all or any part of a suspension or revocation required because of the conviction."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of July, 1981.

H. B. 122

CHAPTER 840

AN ACT TO REQUIRE FORFEITURE OF ANY GAIN RESULTING FROM A FELONY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-2.3. Forfeiture of gain acquired through felonies.—(a) Except as is otherwise provided in Article 3 of Chapter 31A, in the case of any violation of a general statute constituting a felony other than a nonwillful homicide, any money or other property or interest in property acquired thereby shall be forfeited to the State of North Carolina, including any profits, gain, remuneration, or compensation directly or indirectly collected by or accruing to any felon.

1206
(b) An action to recover such property shall be brought by either a District Attorney or the Attorney General pursuant to G.S. 1-532. The action must be brought within three years from the date of the conviction for the felony.

(c) Nothing in this section shall be construed to require forfeiture of any money or property recovered by law enforcement officers pursuant to the investigation of a felony when the money or property is readily identifiable by the owner or guardian of the property or is traceable to him."

Sec. 2. This act shall become effective October 1, 1981, and shall apply to all felonies committed on or after that date.

In the General Assembly read three times and ratified, this the 7th day of July, 1981.

H. B. 353

CHAPTER 841

AN ACT TO REGULATE INTEREST RATES ON LIFE INSURANCE POLICY LOANS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 58 of the General Statutes is hereby amended by adding a new Article 22B to read as follows:

"ARTICLE 22B.

"Regulation of Interest Rates on Life Insurance Policy Loans.

"§ 58-213.13. Purpose.—The purpose of this Article is to permit and set guidelines for life insurers to include in life insurance policies issued after the effective date of this Article a provision for periodic adjustment of policy loan interest rates. Nothing in this Article shall be construed to prohibit a life insurer from issuing a policy that contains only the provision specified in G.S. 58-213.15(a)(i) with respect to policy loan interest rates.

"§ 58-213.14. Definitions.—For purposes of this Article the 'Published Monthly Average' means:

(a) The Monthly Average of the Composite Yield on Seasoned Corporate Bonds as published by Moody's Investors Service, Inc., or any successor thereto; or

(b) In the event that the Monthly Average of the Composite Yield on Seasoned Corporate Bonds is no longer published, a substantially similar average, established by regulation issued by the Commissioner.

"§ 58-213.15. Maximum rate of interest on policy loans.—(a) Policies issued on or after the effective date of this Article shall provide for policy loan interest rates as follows:

(i) A provision permitting a maximum interest rate of not more than 8% per annum; or

(ii) A provision permitting an adjustable maximum interest rate established from time to time by the life insurer as permitted by law.

(b) The rate of interest on a policy loan made under subsection (a)(ii) shall not exceed the higher of the following:

(i) The published monthly average for the calendar month ending two months before the date on which the rate is determined; or

(ii) The rate used to compute the cash surrender values under the policy during the applicable period plus 1% per annum.

1207
(c) If the maximum rate of interest is determined pursuant to subsection (a)(ii), the policy shall contain a provision setting forth the frequency at which the rate is to be determined for that policy.

(d) The maximum rate for each policy must be determined at regular intervals at least once every 12 months, but not more frequently than once in any three month period. At the intervals specified in the policy:

(i) The rate being charged may be increased whenever such increase as determined under subsection (b) would increase that rate by 1/2% or more per annum;

(ii) The rate being charged must be reduced whenever such reduction as determined under subsection (b) would decrease that rate by 1/2% or more per annum.

(e) The life insurer shall:

(i) Notify the policyholder at the time a cash loan is made of the initial rate of interest on the loan;

(ii) Notify the policyholder with respect to premium loans of the initial rate of interest on the loan as soon as it is reasonably practical to do so after making the initial loan. Notice need not be given to the policyholder when a further premium loan is added, except as provided in (iii) below;

(iii) Send to policyholders with loans reasonable advance notice of any increase in the rate; and

(iv) Include in the notices required above the substance of the pertinent provisions of subsections (a) and (c).

(f) No policy shall terminate in a policy year as the sole result of change in the interest rate during that policy year, and the life insurer shall maintain coverage during that policy year until the time at which it would otherwise have terminated if there had been no change during that policy year.

(g) The substance of the pertinent provisions of subsections (a) and (c) shall be set forth in the policies to which they apply.

(h) For purposes of this section:

(i) The rate of interest on policy loans permitted under this section includes the interest rate charged on reinstatement of policy loans for the period during and after any lapse of a policy.

(ii) The term 'policy loan' includes any premium loan made under a policy to pay one or more premiums that were not paid to the life insurer as they fell due.

(iii) The term 'policyholder' includes the owner of the policy or the person designated to pay premiums as shown on the records of the life insurer.

(iv) The term 'policy' includes certificates issued by a fraternal benefit society and annuity contracts which provide for policy loans.

(i) No other provision of law shall apply to policy loan interest rates unless made specifically applicable to such rates.

"§ 58-213.16. Applicability to existing policies.—The provisions of this Article shall not apply to any insurance contract issued before the effective date of this Article."

Sec. 2. This act shall become effective September 1, 1981.

In the General Assembly read three times and ratified, this the 7th day of July, 1981.
H. B. 628  CHAPTER 842

AN ACT TO AMEND THE CAROLINA BEACH CHARTER TO PROVIDE FOR POPULAR ELECTION OF THE MAYOR AND TO CHANGE FROM THE PLURALITY METHOD TO THE ELECTION AND RUNOFF ELECTION METHOD.

The General Assembly of North Carolina enacts:

Section 1. Sections 3.1, 3.2, and 3.3 of the Charter of the Town of Carolina Beach, as found in Chapter 376, Session Laws of 1973 are rewritten to read:

"Sec. 3.1. Composition of Town Council. The Town Council shall consist of Mayor and four members to be elected by the qualified voters of the Town voting at large. Elections shall be nonpartisan and decided by majority vote, as provided in G.S. 163-293.

"Sec. 3.2. Mayor and Mayor Pro Tempore. The Mayor shall be elected by the qualified voters of the Town and his term shall be for two years. In case of vacancy in the office of the Mayor, the remaining members shall elect his successor for the unexpired term. The duties of the Mayor shall be to preside at all meetings of the Town Council; to be the official Head of the Town for the Service of Process, for ceremonial purposes, and shall be so recognized by the Governor of the State in connection with the Military Law; shall have power to administer oaths and take affidavits; shall sign all written contracts entered into by the Council on behalf of the Town and all other contracts and instruments executed by the Town, which by law require the Mayor's signature. All other contracts shall be made and signed by the Mayor or Town Manager. The Mayor shall have the same power as other members of the Council to vote upon any question, or upon the appointment of officers, but he shall have no power to veto. The Mayor shall exercise such powers and perform such duties as are or may be conferred upon him by the general laws of North Carolina, by this Charter, and by the Ordinances of the Town. At its organizational meeting the Council shall elect one of its members, Mayor Pro Tempore, to preside in the absence of the Mayor, and to act as Mayor in the absence of or during the disability of the Mayor. In the event of a vacancy in the Office of the Mayor, the Mayor Pro Tempore shall act as Mayor until a Mayor is elected by the Council pursuant to this section of this Article. The term of office of the Mayor Pro Tempore shall be two years.

"Sec. 3.3. Terms; Qualifications; Vacancies. (a) The members of the Town Council shall serve for terms of four years.

(b) Vacancies shall be filled as provided in G.S. 160A-63."

Sec. 2. Section 4.1 of the Charter of the Town of Carolina Beach is amended by rewriting the third sentence to read:

"In the regular election of 1983 and quadrennially thereafter, there shall be elected one councilman to serve a term of four years.", and by adding a new sentence to read: "In the regular election in 1983, and biennially thereafter, a Mayor shall be elected to serve a term of two years."

Sec. 3. Sections 1 and 2 of this act shall become effective only if approved by the voters of the Town of Carolina Beach. The New Hanover County Board of Elections shall hold a referendum on the day of the 1981 municipal election (November 3, 1981) on the question of approval of Sections 1 and 2 of this act. The referendum shall be held in accordance with the
provisions of Chapter 163 of the General Statutes, and the form of the ballot shall be:

"☐ FOR approval of an act to provide for popular election of the Mayor and to change from the plurality method to the election and runoff election method.

☐ AGAINST approval of an act to provide for popular election of the Mayor and to change from the plurality method to the election and runoff election method."

In the event that a majority of votes are cast in favor of the approval of Sections 1 and 2 of this act, then they shall be effective, beginning with the 1983 town election. In the event that less than a majority of the votes are cast in favor of the approval of Sections 1 and 2 of this act, they shall have no force or effect.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of July, 1981.

H. B. 748

CHAPTER 843

AN ACT REGULATING THE PURCHASE, OR EXCHANGE OF SUPPLIES, EQUIPMENT AND MATERIALS BY LOCAL BOARDS OF EDUCATION IN CERTAIN COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of G.S. 115C-522(a) as that section appears in Chapter 423 of the 1981 Session Laws, the county boards of education for the counties of Currituck, Durham, Guilford, and Orange, and the city boards of education within those counties may purchase or exchange supplies, equipment, and materials in accordance with contracts made by the Department of Administration.

Sec. 2. The purpose of this act is to study the effects of discretionary purchase authority. Local boards of education shall maintain and make available to the Department of Administration records necessary to assess the cost effectiveness of the discretionary authority provided by this act. The Department of Administration in cooperation with the State Board of Education shall assess the effectiveness of the discretionary authority provided by this act and make a report to the General Assembly on or before March 1, 1983.

Sec. 3. This act shall become effective upon ratification, and shall expire July 1, 1983, and shall not repeal or supersede any local acts.

In the General Assembly read three times and ratified, this the 7th day of July, 1981.
H. B. 952    CHAPTER 844
AN ACT TO INSURE THAT FINANCE CHARGES OR INTEREST IS
IMPOSED ONLY ON THE PAST-DUE BALANCE OF CREDIT CARD
ACCOUNTS.

The General Assembly of North Carolina enacts:

Section 1. Lines 8-10 of G.S. 24-11(a), as it appears in the 1979
Cumulative Supplement to the 1965 Replacement Volume 1D of the General
Statutes, is amended to read:
"one and one-half percent (1-1/2%) per month computed on the unpaid
portion of the balance of the previous month less payments or credit within the
billing cycle or the average daily balance outstanding during the current billing
period. No person, firm or corporation may charge a discount or fee in excess".

Sec. 2. This act is effective January 1, 1982, but shall not affect pending
litigation.

In the General Assembly read three times and ratified, this the 7th day of
July, 1981.

H. B. 1144    CHAPTER 845
AN ACT TO PERMIT LICENSING OF LIFE INSURANCE
CORPORATIONS.

The General Assembly of North Carolina enacts:

Section 1. Article 3 of General Statutes Chapter 58 is amended by
adding a new section to read:
§58-41.5. Licensing of persons other than individuals as life insurance
agents.—(a) A person other than an individual may be licensed as a life
insurance agent as defined in G.S. 58-39.4(e). In such event, each individual who
is to act for the person shall be named in the application for license and shall
qualify as an individual licensee.
(b) A license shall not be issued to a person other than an individual unless it
maintains a place of business in this State.
(c) The licensee shall promptly notify the Commissioner of all changes among
the individuals named in its application."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of
July, 1981.

H. B. 1185    CHAPTER 846
AN ACT TO ESTABLISH STANDARDS FOR THE COLLECTION, USE,
AND DISCLOSURE OF INFORMATION GATHERED IN CONNECTION
WITH INSURANCE TRANSACTIONS BY INSURERS, AGENTS, AND
INSURANCE-SUPPORT ORGANIZATIONS.

The General Assembly of North Carolina enacts:

Section 1. General Statutes Chapter 58 is amended by adding a new
Article to read:

"ARTICLE 34.

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"Insurance Information and Privacy Protection Act.

"§ 58-380. Short title.—This Article may be cited as the Insurance Information and Privacy Protection Act.

"§ 58-381. Purpose.—The purpose of this Article is to establish standards for the collection, use, and disclosure of information gathered in connection with insurance transactions by insurance institutions, agents, or insurance-support organizations; to maintain a balance between the need for information by those conducting the business of insurance and the public's need for fairness in insurance information practices, including the need to minimize intrusiveness; to establish a regulatory mechanism to enable natural persons to ascertain what information is being or has been collected about them in connection with insurance transactions and to have access to such information for the purpose of verifying or disputing its accuracy; to limit the disclosure of information collected in connection with insurance transactions; and to enable insurance applicants and policyholders to obtain the reasons for any adverse underwriting decision.

"§ 58-382. Scope.—(a) The obligations imposed by this Article shall apply to those insurance institutions, agents, or insurance-support organizations that, on or after the effective date of this Article:

1. In the case of life or accident and health insurance:
   a. collect, receive, or maintain information in connection with insurance transactions that pertain to natural persons who are residents of this State; or
   b. engage in insurance transactions with applicants, individuals, or policyholders who are residents of this State; and

2. In the case of property or casualty insurance:
   a. collect, receive, or maintain information in connection with insurance transactions involving policies, contracts, or certificates of insurance delivered, issued for delivery, or renewed in this State; or
   b. engage in insurance transactions involving policies, contracts, or certificates of insurance delivered, issued for delivery, or renewed in this State.

(b) The rights granted by this Article shall extend to:

1. In the case of life or accident and health insurance, the following persons who are residents of this State:
   a. natural persons who are the subject of information collected, received, or maintained in connection with insurance transactions; and
   b. applicants, individuals, or policyholders who engage in or seek to engage in insurance transactions;

2. In the case of property or casualty insurance, the following persons:
   a. natural persons who are the subject of information collected, received, or maintained in connection with insurance transactions involving policies, contracts, or certificates of insurance delivered, issued for delivery, or renewed in this State; and
   b. applicants, individuals, or policyholders who engage in or seek to engage in insurance transactions involving policies, contracts, or certificates of insurance delivered, issued for delivery, or renewed in this State.

(c) For purposes of this section, a person shall be considered a resident of this State if the person's last known mailing address, as shown in the records of the
insurance institution, agent, or insurance-support organization, is located in this State.

(d) Notwithstanding subsections (a) and (b) of this section, this Article shall not apply to information collected from the public records of a governmental authority and maintained by an insurance institution or its representatives for the purpose of insuring the title to real property located in this State.

"§ 58-383. Definitions.—As used in this Article:

(1) "Adverse underwriting decision" means:
   a. Any of the following actions with respect to insurance transactions involving insurance coverage that is individually underwritten:
      1. a declination of insurance coverage;
      2. a termination of insurance coverage;
      3. failure of an agent to apply for insurance coverage with a specific insurance institution that an agent represents and that is requested by an applicant;
      4. in the case of a property or casualty insurance coverage:
         a. placement by an insurance institution or agent of a risk with a residual market mechanism or an unauthorized insurer, or
         b. the charging of a higher rate on the basis of information that differs from that which the applicant or policyholder furnished; or
      5. in the case of a life or accident and health insurance coverage, an offer to insure at higher than standard rates.
   b. Notwithstanding subdivision(1)a. of this section, the following actions shall not be considered adverse underwriting decisions, but the insurance institution or agent responsible for their occurrence shall nevertheless provide the applicant or policyholder with the specific reason or reasons for their occurrence:
      1. the termination of an individual policy form on a class or statewide basis;
      2. a declination of insurance coverage solely because such coverage is not available on a class or statewide basis; or
      3. the rescission of a policy.

(2) 'Affiliate' or 'affiliated' means a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with another person.

(3) 'Agent' shall have the meanings as set forth in G.S. 58-39.4 and shall include surplus lines brokers, salesmen, or representatives of a medical, surgical, hospital, dental, or optometric service plan, and salesmen or representatives of a health maintenance organization.

(4) 'Applicant' means any person who seeks to contract for insurance coverage other than a person seeking group insurance that is not individually underwritten.

(5) 'Consumer report' means any written, oral, or other communication of information bearing on a natural person's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living that is used or expected to be used in connection with an insurance transaction.

(6) 'Consumer reporting agency' means any person who:
   a. Regularly engages, in whole or in part, in the practice of assembling or preparing consumer reports for a monetary fee;
b. Obtains information primarily from sources other than insurance institutions; and

c. Furnishes consumer reports to other persons.

(7) 'Control', including the terms 'controlled by' or 'under common control with', means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person.

(8) 'Declination of insurance coverage' means a denial, in whole or in part, by an insurance institution or agent of requested insurance coverage.

(9) 'Individual' means any natural person who:

a. In the case of property or casualty insurance, is a past, present, or proposed named insured or certificate holder;

b. In the case of life or accident and health insurance, is a past, present, or proposed principal insured or certificate holder;

c. Is a past, present or proposed policy owner;

d. Is a past or present applicant;

e. Is a past or present claimant; or

f. Derived, derives, or is proposed to derive insurance coverage under an insurance policy or certificate subject to this Article.

(10) 'Institutional source' means any person or governmental entity that provides information about an individual to an agent, insurance institution, or insurance-support organization, other than:

a. An agent;

b. The individual who is the subject of the information; or

c. A natural person acting in a personal capacity rather than in a business or professional capacity.

(11) 'Insurance institution' means any corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyd's insurer, fraternal benefit society, or other person engaged in the business of insurance, including health maintenance organizations and medical, surgical, hospital, dental, and optometric service plans, governed by General Statutes Chapters 57 and 57B. 'Insurance institution' shall not include agents or insurance-support organizations.

(12) 'Insurance-support organization' means any person who regularly engages, in whole or in part, in the practice of assembling or collecting information about natural persons for the primary purpose of providing the information to an insurance institution or agent for insurance transactions, including: (i) the furnishing of consumer reports or investigative consumer reports to an insurance institution or agent for use in connection with an insurance transaction; or (ii) the collection of personal information from insurance institutions, agents, or other insurance-support organizations for the purpose of detecting or preventing fraud, material misrepresentation, or material nondisclosure in connection with insurance underwriting or insurance claim activity; provided, however, the following persons shall not be considered 'insurance-support organizations' for purposes of this Article: Agents, governmental institutions, insurance institutions, medical-care institutions, and medical professionals.
(13) 'Insurance transaction' means any transaction involving insurance primarily for personal, family, or household needs rather than business or professional needs that entails:
   a. The determination of an individual's eligibility for an insurance coverage, benefit, or payment; or
   b. The servicing of an insurance application, policy, contract, or certificate.

(14) 'Investigative consumer report' means a consumer report or portion thereof in which information about a natural person's character, general reputation, personal characteristics, or mode of living is obtained through personal interviews with the person's neighbors, friends, associates, acquaintances, or others who may have knowledge concerning such items of information.

(15) 'Life insurance' includes annuities.

(16) 'Medical-care institution' means any facility or institution that is licensed to provide health care services to natural persons, including but not limited to, hospitals, skilled nursing facilities, home-health agencies, medical clinics, rehabilitation agencies, public-health agencies, or health-maintenance organizations.

(17) 'Medical professional' means any person licensed or certified to provide health care services to natural persons, including but not limited to, a physician, dentist, nurse, chiropractor, optometrist, physical or occupational therapist, psychiatric social worker, clinical dietitian, clinical psychologist, pharmacist, or speech therapist.

(18) 'Medical-record information' means personal information that:
   a. Relates to an individual's physical or mental condition, medical history, or medical treatment; and
   b. Is obtained from a medical professional or medical-care institution, from the individual, or from the individual's spouse, parent, or legal guardian.

(19) 'Personal information' means any individually identifiable information gathered in connection with an insurance transaction from which judgements can be made about an individual's character, habits, avocations, finances, occupation, general reputation, credit, health, or any other personal characteristics. 'Personal information' includes an individual's name and address and medical-record information, but does not include privileged information.

(20) 'Policyholder' means any person who:
   a. In the case of individual property or casualty insurance, is a present named insured;
   b. In the case of individual life or accident and health insurance, is a present policy owner; or
   c. In the case of group insurance that is individually underwritten, is a present group certificate holder.

(21) 'Pretext interview' means an interview whereby a person, in an attempt to obtain information about a natural person, performs one or more of the following acts:
   a. Pretends to be someone he is not;
   b. Pretends to represent a person he is not in fact representing;
   c. Misrepresents the true purpose of the interview; or
d. Refuses to identify himself upon request.

(22) 'Privileged information' means any individually identifiable information that (i) relates to a claim for insurance benefits or a civil or criminal proceeding involving an individual, and (ii) is collected in connection with or in reasonable anticipation of a claim for insurance benefits or civil or criminal proceeding involving an individual: Provided, however, information otherwise meeting the requirements of this subsection shall nevertheless be considered personal information under this Article if it is disclosed in violation of G.S. 58-394.

(23) ‘Residual market mechanism’ means any reinsurance facility, joint underwriting association, assigned risk plan, or other similar plan established under the laws of this State.

(24) ‘Termination of insurance coverage’ or ‘termination of an insurance policy’ means either a cancellation or nonrenewal of an insurance policy, in whole or in part, for any reason other than the failure to pay a premium as required by the policy.

(25) ‘Unauthorized insurer’ means an insurance institution that has not been granted a license by the Commissioner to transact the business of insurance in this State.

"§ 58-384. Pretext interviews.—No insurance institution, agent, or insurance-support organization shall use or authorize the use of pretext interviews to obtain information in connection with an insurance transaction: Provided, however, a pretext interview may be undertaken to obtain information from a person or institution that does not have a generally or statutorily recognized privileged relationship with the person about whom the information relates for the purpose of investigating a claim where, based upon specific information available for review by the Commissioner, there is a reasonable basis for suspecting criminal activity, fraud, material misrepresentation, or material nondisclosure in connection with the claim.

"§ 58-385. Notice of insurance information practices.—(a) An insurance institution or agent shall provide a notice of information practices to all applicants or policyholders in connection with insurance transactions as provided in this section:

(1) In the case of an application for insurance a notice shall be provided no later than:
   a. At the time of the delivery of the insurance policy or certificate when personal information is collected only from the applicant or from public records; or
   b. At the time the collection of personal information is initiated when personal information is collected from a source other than the applicant or public records;

(2) In the case of a policy renewal, a notice shall be provided no later than the policy renewal date, except that no notice shall be required in connection with a policy renewal if:
   a. Personal information is collected only from the policyholder or from public records; or
   b. A notice meeting the requirements of this section has been given within the previous twenty-four months; or

(3) In the case of a policy reinstatement or change in insurance benefits, a notice shall be provided no later than the time a request for a policy reinstatement or change in insurance benefits is received by the
insurance institution, except that no notice shall be required if personal information is collected only from the policyholder or from public records.

(b) The notice required by subsection (a) of this section shall be in writing and shall state:

(1) Whether personal information may be collected from persons other than the individual or individuals proposed for coverage;

(2) The types of personal information that may be collected and the types of sources and investigative techniques that may be used to collect such information;

(3) The types of disclosures identified in subsections (2), (3), (4), (5), (6), (9), (11), (12), and (14) of G.S. 58-394 and the circumstances under which such disclosures may be made without prior authorization: Provided, however, only those circumstances need be described that occur with such frequency as to indicate a general business practice;

(4) A description of the rights established under G.S. 58-389 and G.S. 58-390 and the manner in which such rights may be exercised; and

(5) That information obtained from a report prepared by an insurance-support organization may be retained by the insurance-support organization and disclosed to other persons.

(c) In lieu of the notice prescribed in subsection (b) of this section, the insurance institution or agent may provide an abbreviated notice informing the applicant or policyholder that:

(1) Personal information may be collected from persons other than the individual or individuals proposed for coverage;

(2) Such information, as well as other personal or privileged information subsequently collected by the insurance institution or agent, in certain circumstances, may be disclosed to third parties without authorization;

(3) A right of access and correction exists with respect to all personal information collected; and

(4) The notice prescribed in subsection (b) of this section will be furnished to the applicant or policyholder upon request.

(d) The obligations imposed by this section upon an insurance institution or agent may be satisfied by another insurance institution or agent authorized to act on its behalf.

"§ 58-386. Marketing and research surveys.—An insurance institution or agent shall clearly specify those questions designed to obtain information solely for marketing or research purposes from an individual in connection with an insurance transaction.

"§ 58-387. Content of disclosure authorization forms.—Notwithstanding any other provision of law of this State, no insurance institution, agent, or insurance-support organization shall utilize as its disclosure authorization form in connection with insurance transactions involving insurance policies or contracts issued after January 1, 1982, a form or statement that authorizes the disclosure of personal or privileged information about an individual to the insurance institution, agent, or insurance-support organization unless the form or statement:

(1) Complies with the provisions of Article 33 of this Chapter;

(2) Is dated;
(3) Specifies the types of persons authorized to disclose information about the individual;
(4) Specifies the nature of the information authorized to be disclosed;
(5) Names the insurance institution or agent and identifies by generic reference representatives of the insurance institution to whom the individual is authorizing information to be disclosed;
(6) Specifies the purposes for which the information is collected;
(7) Specifies the length of time such authorization shall remain valid, which shall be no longer than:
   a. In the case of authorizations signed for the purpose of collecting information in connection with an application for an insurance policy, a policy reinstatement, or a request for change in policy benefits:
      (i) 30 months from the date the authorization is signed if the application or request involves life, health, or disability insurance; or
      (ii) one year from the date the authorization is signed if the application or request involves property or casualty insurance;
   b. In the case of authorizations signed for the purpose of collecting information in connection with a claim for benefits under an insurance policy:
      (i) the term of coverage of the policy if the claim is for a health insurance benefit; or
      (ii) the duration of the claim if the claim is not for a health insurance benefit; and
(8) Advises the individual or a person authorized to act on behalf of the individual that the individual or the individual’s authorized representative is entitled to receive a copy of the authorization form.

“§58-388. Investigative consumer reports.—(a) No insurance institution, agent, or insurance-support organization may prepare or request an investigative consumer report about an individual in connection with an insurance transaction involving an application for insurance, a policy renewal, a policy reinstatement, or a change in insurance benefits unless the insurance institution or agent informs the individual:
   (1) That he may request to be interviewed in connection with the preparation of the investigative consumer report; and
   (2) That upon a request pursuant to G.S. 58-389, he is entitled to receive a copy of the investigative consumer report.

   (b) If an investigative consumer report is to be prepared by an insurance institution or agent, the insurance institution or agent shall institute reasonable procedures to conduct a personal interview requested by an individual.

   (c) If an investigative consumer report is to be prepared by an insurance-support organization, the insurance institution or agent desiring such report shall inform the insurance-support organization whether a personal interview has been requested by the individual. The insurance-support organization shall institute reasonable procedures to conduct such interviews, if requested.

“§58-389. Access to recorded personal information.—(a) If any individual, after proper identification, submits a written request to an insurance institution, agent, or insurance-support organization for access to recorded personal information about the individual that is reasonably described by the individual and reasonably locatable and retrievable by the insurance institution, agent, or insurance-support organization, the insurance institution,
agent, or insurance-support organization shall within 30 business days from the date such request is received:

(1) Inform the individual of the nature and substance of such recorded personal information in writing, by telephone, or by other oral communication, whichever the insurance institution, agent, or insurance-support organization prefers;

(2) Permit the individual to see and copy, in person, such recorded personal information pertaining to him or to obtain a copy of such recorded personal information by mail, whichever the individual prefers, unless such recorded personal information is in coded form, in which case an accurate translation in plain language shall be provided in writing;

(3) Disclose to the individual the identity, if recorded, of those persons to whom the insurance institution, agent, or insurance-support organization has disclosed such personal information within two years prior to such request, and if the identity is not recorded, the names of those insurance institutions, agents, insurance-support organizations or other persons to whom such information is normally disclosed; and

(4) Provide the individual with a summary of the procedures by which he may request correction, amendment, or deletion of recorded personal information.

(b) Any personal information provided pursuant to subsection (a) of this section shall identify the source of the information if such source is an institutional source.

(c) Medical-record information supplied by a medical-care institution or medical professional and requested under subsection (a) of this section together with the identity of the medical professional or medical-care institution that provided such information, shall be supplied either directly to the individual or to a medical professional designated by the individual and licensed to provide medical care with respect to the condition to which the information relates, whichever the insurance institution, agent, or insurance-support organization prefers. If it elects to disclose the information to a medical professional designated by the individual, the insurance institution, agent, or insurance-support organization shall notify the individual, at the time of the disclosure, that it has provided the information to the medical professional.

(d) Except for personal information provided under G.S. 58-391, an insurance institution, agent, or insurance-support organization may charge a reasonable fee to cover the costs incurred in providing a copy of recorded personal information to individuals.

(e) The obligations imposed by this section upon an insurance institution or agent may be satisfied by another insurance institution or agent authorized to act on its behalf. With respect to the copying and disclosure of recorded personal information pursuant to a request under subsection (a) of this section, an insurance institution, agent, or insurance-support organization may make arrangements with an insurance-support organization or a consumer reporting agency to copy and disclose recorded personal information on its behalf.

(f) The rights granted to individuals in this section shall extend to all natural persons to the extent information about them is collected and maintained by an insurance institution, agent, or insurance-support organization in connection with an insurance transaction. The rights granted to all natural persons by this subsection shall not extend to information about them that relates to and is
collected in connection with or in reasonable anticipation of a claim or civil or criminal proceeding involving them.

(g) For purposes of this section, the term, 'insurance-support organization' does not include the term, 'consumer reporting agency'.

‘§ 58-390. Correction, amendment, or deletion of recorded personal information.—(a) Within 30 business days from the date of receipt of a written request form an individual to correct, amend, or delete any recorded personal information about the individual within its possession, an insurance institution, agent, or insurance-support organization shall either:

(1) Correct, amend, or delete the portion of the recorded personal information in dispute; or

(2) Notify the individual of:
   a. Its refusal to make such correction, amendment, or deletion;
   b. The reasons for the refusal; and
   c. The individual's right to file a statement as provided in subsection (c) of this section.

(b) If the insurance institution, agent, or insurance-support organization corrects, amends, or deletes recorded personal information in accordance with subdivision (a)(1) of this section, the insurance institution, agent, or insurance-support organization shall so notify the individual in writing and furnish the correction, amendment, or fact of deletion to:

(1) Any person specifically designated by the individual who, within the preceding two years, may have received such recorded personal information;

(2) Any insurance-support organization whose primary source of personal information is insurance institutions if the insurance-support organization has systematically received such recorded personal information from the insurance institution within the preceding seven years. The correction, amendment, or fact of deletion need not be furnished if the insurance-support organization no longer maintains recorded personal information about the individual; and

(3) Any insurance-support organization that furnished the personal information that has been corrected, amended, or deleted.

(c) Whenever an individual disagrees with an insurance institution's, agent's, or insurance-support organization's refusal to correct, amend, or delete recorded personal information, the individual shall be permitted to file with the insurance institution, agent, or insurance-support organization:

(1) A concise statement setting forth what the individual thinks is the correct, relevant, or fair information; and

(2) A concise statement of the reasons why the individual disagrees with the insurance institution's, agent's, or insurance-support organization's refusal to correct, amend, or delete recorded personal information.

(d) In the event an individual files either statement as described in subsection (c) of this section, the insurance institution, agent, or support organization shall:

(1) File the statement with the disputed personal information and provide a means by which anyone reviewing the disputed personal information will be made aware of the individual's statement and have access to it; and

(2) In any subsequent disclosure by the insurance institution, agent, or support organization of the recorded personal information that is the
subject of disagreement, clearly identify the matter or matters in dispute and provide the individual’s statement along with the recorded personal information being disclosed; and

(3) Furnish the statement to the persons and in the manner specified in subsection (b) of this section.

(e) The rights granted to individuals in this section shall extend to all natural persons to the extent information about them is collected and maintained by an insurance institution, agent, or insurance-support organization in connection with an insurance transaction. The rights granted to all natural persons by this subsection shall not extend to information about them that relates to and is collected in connection with or in reasonable anticipation of a claim or civil or criminal proceeding involving them.

(f) For purposes of this section, the term, ‘insurance-support organization’ does not include the term, ‘consumer reporting agency’.

§ 58-391. Reasons for adverse underwriting decisions.—(a) In the event of an adverse underwriting decision, the insurance institution or agent responsible for the decision shall give a written notice in a form approved by the Commissioner that:

(1) Either provides the applicant, policyholder, or individual proposed for coverage with the specific reason or reasons for the adverse underwriting decision in writing or advises such person that upon written request he may receive the specific reason or reasons in writing; and

(2) Provides the applicant, policyholder, or individual proposed for coverage with a summary of the rights established under subsection (b) of this section and G.S. 58-389 and G.S. 58-390.

(b) Upon receipt of a written request within 90 business days from the date of the mailing of notice or other communication of an adverse underwriting decision to an applicant, policyholder or individual proposed for coverage, the insurance institution or agent shall furnish to such person within 21 business days from the date of receipt of such written request:

(1) The specific reason or reasons for the adverse underwriting decision, in writing, if such information was not initially furnished in writing pursuant to subdivision (a)(1) of this section;

(2) The specific items of personal and privileged information that support those reasons: Provided, however:

a. The insurance institution or agent shall not be required to furnish specific items of privileged information if it has a reasonable suspicion, based upon specific information available for review by the Commissioner, that the applicant, policyholder, or individual proposed for coverage has engaged in criminal activity, fraud, material misrepresentation, or material nondisclosure, and

b. Specific items of medical-record information supplied by a medical-care institution or medical professional shall be disclosed either directly to the individual about whom the information relates or to a medical professional designated by the individual and licensed to provide medical care with respect to the condition to which the information relates, whichever the insurance institution or agent prefers; and
(3) The names and addresses of the institutional sources that supplied the specific items of information given pursuant to subdivision (b)(2) of this section: Provided, however, the identity of any medical professional or medical-care institution shall be disclosed either directly to the individual or to the designated medical professional, whichever the insurance institution or agent prefers.

(c) The obligations imposed by this section upon an insurance institution or agent may be satisfied by another insurance institution or agent authorized to act on its behalf.

(d) When an adverse underwriting decision results solely from an oral request or inquiry, the explanation of reasons and summary of rights required by this section may be given orally.

"§ 58-392. Information concerning previous adverse underwriting decisions.—No insurance institution, agent, or insurance-support organization may seek information in connection with an insurance transaction concerning: (i) Any previous adverse underwriting decision experienced by an individual; or (ii) Any previous insurance coverage obtained by an individual through a residual market mechanism, unless such inquiry also requests the reasons for any previous adverse underwriting decision or the reasons why insurance coverage was previously obtained through a residual market mechanism.

"§ 58-393. Previous adverse underwriting decisions.—No insurance institution or agent may base an adverse underwriting decision in whole or in part:

(1) On the fact of a previous adverse underwriting decision or on the fact that an individual previously obtained insurance coverage through a residual market mechanism: Provided, however, an insurance institution or agent may base an adverse underwriting decision on further information obtained from an insurance institution or agent responsible for a previous adverse underwriting decision;

(2) On personal information received from an insurance-support organization whose primary source of information is insurance institutions: Provided, however, an insurance institution or agent may base an adverse underwriting decision on further personal information obtained as the result of information received from such insurance-support organization.

"§ 58-394. Disclosure limitations and conditions.—An insurance institution, agent, or insurance-support organization shall not disclose any personal or privileged information about an individual collected or received in connection with an insurance transaction unless the disclosure is:

(1) With the written authorization of the individual, provided:
   a. If such authorization is submitted by another insurance institution, agent, or insurance-support organization, the authorization meets the requirements of G.S. 58-387; or
   b. If such authorization is submitted by a person other than an insurance institution, agent, or insurance-support organization, the authorization is:
      (i) Dated;
      (ii) Signed by the individual; and
      (iii) Obtained one year or less prior to the date a disclosure is sought pursuant to this paragraph; or
(2) To a person other than an insurance institution, agent, or insurance-support organization, provided such disclosure is reasonably necessary:
   a. To enable such person to perform a business, professional, or insurance function for the disclosing insurance institution, agent, or insurance-support organization and such person agrees not to disclose the information further without the individual's written authorization unless the further disclosure:
      (i) Would otherwise be permitted by this section if made by an insurance institution, agent, or insurance-support organization; or
      (ii) Is reasonably necessary for such person to perform its function for the disclosing insurance institution, agent, or insurance-support organization; or
   b. To enable such person to provide information to the disclosing insurance institution, agent, or insurance-support organization for the purpose of:
      (i) Determining an individual's eligibility for an insurance benefit or payment; or
      (ii) Detecting or preventing criminal activity, fraud, material misrepresentation, or material nondisclosure in connection with an insurance transaction; or

(3) To an insurance institution, agent, insurance-support organization, or self-insurer, provided the information disclosed is limited to that which is reasonably necessary:
   a. To detect or prevent criminal activity, fraud, material misrepresentation, or material nondisclosure in connection with insurance transactions; or
   b. For either the disclosing or receiving insurance institution, agent, or insurance-support organization to perform its function in connection with an insurance transaction involving the individual; or

(4) To a medical-care institution or medical professional for the purpose of (i) verifying insurance coverage or benefits, (ii) informing an individual of a medical problem of which the individual may not be aware, or (iii) conducting an operations or services audit, provided only such information is disclosed as is reasonably necessary to accomplish the foregoing purposes; or

(5) To an insurance regulatory authority; or

(6) To a law enforcement or other government authority:
   a. To protect the interests of the insurance institution, agent, or insurance-support organization in preventing or prosecuting the perpetration of fraud upon it; or
   b. If the insurance institution, agent, or insurance-support organization reasonably believes that illegal activities have been conducted by the individual; or

(7) Otherwise permitted or required by law; or

(8) In response to a facially valid administrative or judicial order, including a search warrant or subpoena; or

(9) Made for the purpose of conducting actuarial or research studies, provided:
   a. No individual may be identified in any actuarial or research report;
   b. Materials allowing the individual to be identified are returned or destroyed as soon as they are no longer needed; and
The actuarial or research organization agrees not to disclose the information unless the disclosure would otherwise be permitted by this section if made by an insurance institution, agent, or insurance-support organization; or

(10) To a party or a representative of a party to a proposed or consummated sale, transfer, merger, or consolidation of all or part of the business of the insurance institution, agent, or insurance-support organization, provided:

a. Prior to the consummation of the sale, transfer, merger, or consolidation only such information is disclosed as is reasonably necessary to enable the recipient to make business decisions about the purchase, transfer, merger, or consolidation, and

b. The recipient agrees not to disclose the information unless the disclosure would otherwise be permitted by this section if made by an insurance institution, agent or insurance-support organization; or

(11) To a person whose only use of such information will be in connection with the marketing of a product or service, provided:

a. No medical-record information, privileged information, or personal information relating to an individual's character, personal habits, mode of living, or general reputation is disclosed, and no classification derived from such information is disclosed;

b. The individual has been given an opportunity to indicate that he does not want personal information disclosed for marketing purposes and has given no indication that such individual does not want the information disclosed; and

c. The person receiving such information agrees not to use it except in connection with the marketing of a product or service; or

(12) To an affiliate whose only use of the information will be in connection with an audit of the insurance institution or agent or the marketing of an insurance product or service, provided the affiliate agrees not to disclose the information for any other purpose or to unaffiliated persons; or

(13) By a consumer reporting agency, provided the disclosure is to a person other than an insurance institution or agent; or

(14) To a group policyholder for the purpose of reporting claims experience or conducting an audit of the insurance institution's or agent's operations or services, provided the information disclosed is reasonably necessary for the group policyholder to conduct the review or audit; or

(15) To a professional peer review organization for the purpose of reviewing the service or conduct of a medical care institution or medical professional; or

(16) To a governmental authority for the purpose of determining the individual's eligibility for health benefits for which the governmental authority may be liable; or

(17) To a certificate holder or policyholder for the purpose of providing information regarding the status of an insurance transaction.

(18) To a lienholder, mortgagee, assignee, lessor, or other person shown on the records of an insurance institution or agent as having a legal or beneficial interest in a policy of insurance; provided that the information disclosed is limited to that which is reasonably necessary to permit such person to protect its interest in such policy.

§58.395. Powers of the Commissioner.—(a) The Commissioner shall have the power to examine and investigate into the affairs of every insurance
in institution or agent doing business in this State to determine whether the insurance institution or agent has been or is engaged in any conduct in violation of this Article.

(b) The Commissioner shall have the power to examine and investigate the affairs of every insurance-support organization that acts on behalf of an insurance institution or agent and that either (i) transacts business in this State, or (ii) transacts business outside this State and has an effect on a person residing in this State in order to determine whether such insurance-support organization has been or is engaged in any conduct in violation of this Article.

"§ 58-396. Hearings and procedures.—(a) Whenever the Commissioner has reason to believe that an insurance institution, agent, or insurance-support organization has been or is engaged in conduct in this State that violates this Article, or whenever the Commissioner has reason to believe that an insurance-support organization has been or is engaged in conduct outside this State that has an effect on a person residing in this State and that violates this Article, the Commissioner may issue and serve upon such insurance institution, agent, or insurance-support organization a statement of charges and notice of hearing to be held at a time and place fixed in the notice. The date for such hearing shall be not less than 10 days after the date of service.

(b) At the time and place fixed for such hearing the insurance institution, agent, or insurance-support organization charged shall have an opportunity to answer the charges against it and present evidence on its behalf. Upon good cause shown, the Commissioner shall permit any adversely affected person to intervene, appear, and be heard at such hearing by counsel or in person.

"§ 58-397. Service of process; insurance-support organizations.—For the purpose of this Article, an insurance-support organization transacting business outside this State that has an effect on a person residing in this State shall be deemed to have appointed the Commissioner to accept service of process on its behalf, provided the Commissioner causes a copy of such service to be mailed forthwith by registered mail to the insurance-support organization at its last known principal place of business. The Commissioner shall file an affidavit of compliance with the requirements of this section with the other papers in the proceeding giving rise to such service.

"§ 58-398. Cease and desist orders.—If, after a hearing pursuant to G.S. 58-396, the Commissioner determines that the insurance institution, agent, or insurance-support organization charged has engaged in conduct or practices in violation of this Article, he may issue an order requiring such insurance institution, agent, or insurance-support organization to cease and desist from the conduct or practices constituting a violation of this Article.

"§ 58-399. Penalties.—In any case where a hearing pursuant to G.S. 58-396 results in the findings of a knowing violation of this Article, the Commissioner, in addition to the issuance of a cease and desist order as prescribed in G.S. 58-398, may apply to a court of competent jurisdiction for an order directing payment of a monetary penalty of not more than five hundred dollars ($500.00) for each violation but not to exceed ten thousand dollars ($10,000) in the aggregate for multiple violations.

(b) Any person who violates a cease and desist order of the Commissioner under G.S. 58-398, after notice and hearing and upon order of the court, may be subject to one or more of the following penalties, at the discretion of the court:
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(1) A monetary fine of not more than ten thousand dollars ($10,000) for each violation; or
(2) A monetary fine of not more than fifty thousand dollars ($50,000) if the court finds that violations have occurred with such frequency as to constitute a general business practice; or
(3) Suspension or revocation of an insurance institution's or agent's license.

"§ 58-400. Appeal of right.—From any final order of the Commissioner issued pursuant to the provisions of this Article there shall be an appeal as provided in G.S. 58-9.3.

"§ 58-401. Individual remedies.—(a) If any insurance institution, agent, or insurance-support organization fails to comply with G.S. 58-389, G.S. 58-390, or G.S. 58-391 with respect to the rights granted under those sections, any person whose rights are violated may apply to the superior court in the county in which such person resides for appropriate equitable relief.

(b) An insurance institution, agent, or insurance-support organization that discloses information in violation of G.S. 58-394 shall be liable for damages sustained by the individual to whom the information relates. No individual, however, shall be entitled to a monetary award that exceeds the actual damages sustained by the individual as a result of a violation of G.S. 58-394.

(c) In any action brought pursuant to this section, the court may award the cost of the action and reasonable attorney's fees to the prevailing party.

(d) An action under this section must be brought within two years from the date the alleged violation is or should have been discovered.

(e) Except as specifically provided in this section, there shall be no remedy or recovery available to individuals for any occurrence that constitutes a violation of any provision of this Article.

"§ 58-402. Immunity.—No cause of action in the nature of defamation, invasion of privacy, or negligence shall arise against any person for disclosing personal or privileged information in accordance with this Article, nor shall such a cause of action arise against any person for furnishing personal or privileged information to an insurance institution, agent, or insurance-support organization: Provided, however, this section shall provide no immunity for disclosing or furnishing false information with malice or willful intent to injure any person.

"§ 58-403. Obtaining information under false pretenses.—Any person who knowingly and willfully obtains information about an individual from an insurance institution, agent, or insurance-support organization under false pretenses shall be fined not more than ten thousand dollars ($10,000) or imprisoned for more than one year, or both.

"§ 58-404. Rights.—The rights granted under G.S. 58-389, G.S. 58-390, and G.S. 58-394 shall take effect on January 1, 1982, regardless of the date of the collection or receipt of the information that is the subject of such sections."

Sec. 2. G.S. 58-9(1) is amended on the last line by changing the period to a colon after the word, "regulation" and by adding the following language:

"Provided, however, that the provisions of this subsection shall not apply to the provisions of Article 34 of this Chapter."

Sec. 3. The publisher of the General Statutes of North Carolina is directed to insert in General Statutes Chapters 57 and 57B cross references to Article 34 of General Statutes Chapter 58.

Sec. 4. This act shall become effective July 1, 1982.
In the General Assembly read three times and ratified, this the 7th day of July, 1981.

H. B. 1188  CHAPTER 847

AN ACT TO AMEND G.S. 7A-506 TO ADD EIGHT ADDITIONAL MEMBERS TO THE NORTH CAROLINA COURTS COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-506 is amended by adding the following paragraph thereto:

"Effective July 1, 1981, the membership of the Commission is increased to 23 voting members. The Governor shall appoint two additional voting members, one of whom shall be a District Attorney, and one of whom shall be a member of the General Assembly. The President of the Senate shall appoint three additional voting members, one of whom shall be a regular superior court judge, and two of whom shall be members of the General Assembly. The Speaker of the House shall appoint three additional voting members, one of whom shall be a district court judge, and two of whom shall be members of the General Assembly. The legislators shall each serve a term of four years, or until they cease to be members of the General Assembly, whichever is earlier. The district attorney and trial judges shall serve an initial term of two years, or until they cease to occupy their respective offices, whichever is later. Their successors appointed on July 1, 1983, and quadrennially thereafter, shall serve for terms of four years, or until they cease to occupy their respective offices, whichever is later. A vacancy in an additional voting membership shall be filled for the unexpired term by the appointing authority who made the original appointment. An additional voting member whose term expires may be reappointed."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of July, 1981.

H. B. 1191  CHAPTER 848

AN ACT REGARDING THE DECLARANT'S AND WITNESSES' CERTIFICATES TO A "LIVING WILL".

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-321(c)(3) is rewritten to read:

"(3) Which has been signed by the declarant in the presence of two witnesses who believe the declarant to be of sound mind and who state that they (i) are not related within the third degree to the declarant or to the declarant's spouse, (ii) do not know or have a reasonable expectation that they would be entitled to any portion of the estate of the declarant upon his death under any will of the declarant or codicil thereto then existing or under the Intestate Succession Act as it then provides, (iii) are not the attending physician, or an employee of the attending physician, or an employee of a health facility in which the declarant is a patient, or an employee of a nursing home or any group-care home in which the declarant resides, and (iv) do not have a claim against any portion of the estate of the declarant at the time of the declaration; and".

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Sec. 2. G.S. 90-321(d) is amended by rewriting the form “Declaration Of A Desire For A Natural Death” to read:

"Declaration Of A Desire For A Natural Death

I,__________________________________, being of sound mind, desire that my life not be prolonged by extraordinary means if my condition is determined to be terminal and incurable. I am aware and understand that this writing authorizes a physician to withhold or discontinue extraordinary means.

This the________day of______

Signature________________________________________

I hereby state that the declarant,__________________________________, being of sound mind signed the above declaration in my presence and that I am not related to the declarant by blood or marriage and that I do not know or have a reasonable expectation that I would be entitled to any portion of the estate of the declarant under any existing will or codicil of the declarant or as an heir under the Intestate Succession Act if the declarant died on this date without a will. I also state that I am not the declarant’s attending physician or an employee of the declarant’s attending physician, or an employee of a health facility in which the declarant is a patient or an employee of a nursing home or any group-care home where the declarant resides. I further state that I do not now have any claim against the declarant.

Witness__________________________
Witness__________________________

Sec. 3. G.S. 90-321(d) is further amended by rewriting the first “Certificate” to read:

"Certificate

I,__________________________________, Clerk (Assistant Clerk) of Superior Court or Notary Public (circle one as appropriate) for ___________________________County hereby certify that ________________________________, the declarant, appeared before me and swore to me and to the witnesses in my presence that this instrument is his Declaration Of A Desire For A Natural Death, and that he had willingly and voluntarily made and executed it as his free act and deed for the purposes expressed in it.

I further certify that _______ and ________, witnesses, appeared before me and swore that they witnessed ________, declarant, sign the attached declaration, believing him to be of sound mind; and also swore that at the time they witnessed the declaration (i) they were not related within the third degree to the declarant or to the declarant’s spouse, and (ii) they did not know or have a reasonable expectation that they would be entitled to any portion of the estate of the declarant upon the declarant’s death under any will of the declarant or codicil thereto then existing or under the Intestate Succession Act as it provides at that time, and (iii) they were not a physician attending the declarant or an employee of an attending physician or an employee of a health facility in which the declarant was a patient or an employee of a nursing home or any group-care home in which the declarant resided, and (iv) they did not have a claim against the declarant. I further certify that I am satisfied as to the genuineness and due execution of the declaration.

This the____________day of__________________________

Clerk (Assistant Clerk) of Superior Court or Notary Public (circle one
Sec. 4. This act does not affect the validity of any "Declaration Of A Desire For A Natural Death" executed prior to the effective date of this act.

Sec. 5. G.S. 90-322 is amended as follows:
In the first sentence of subsection (a) by inserting after the word "state" the words "or is mentally incapacitated".
In subsection (a)(3) by inserting after the word "person" the words "could be restored by extraordinary means or a vital function of the person", and by inserting after the words "may be" and before the word "discontinued", the words "withheld or".
In subsection (b) in the third line by inserting, after the words "may be" and before the word "discontinued", the words "withheld or".
In subsection (d), in the first line, by inserting after the first word "the" and before the word "discontinuance", the words "withholding or".

Sec. 6. This act shall become effective upon ratification.
In the General Assembly read three times and ratified, this the 7th day of July, 1981.

H. B. 1216  CHAPTER 849
AN ACT TO ALLOW THE PRESERVATION OF THE HOME PLACE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 275 of the Session Laws of 1981 is amended by relabeling G.S. 108A-55(c) as G.S. 108A-55(d) and adding a new paragraph G.S. 108A-55(c) to read:
"(c) When determining whether a person has insufficient resources to provide a reasonable subsistence compatible with decency and health, there shall be excluded from consideration the person's primary place of residence and the land on which it is situated, and in addition there shall be excluded real property contiguous with the person's primary place of residence in which the property tax value is less than twelve thousand dollars ($12,000)."

Sec. 2. Chapter 275 of the Session Laws of 1981 is amended by adding the following sentence after the first sentence in G.S. 108A-77:
"When determining whether a person has sufficient resources to provide necessary medical care, there shall be excluded from consideration the person's primary place of residence and the land on which it is situated, and in addition there shall be excluded real property contiguous with the person's primary place of residence in which the property tax value is less than twelve thousand dollars ($12,000)."

Sec. 3. This act shall become effective October 1, 1981.
In the General Assembly read three times and ratified, this the 7th day of July, 1981.
CHAPTER 850  Session Laws—1981

H. B. 1222  CHAPTER 850
AN ACT TO ALLOW THE CATAWBA COUNTY BOARD OF ELECTIONS TO ESTABLISH VOTING PRECINCTS WITHOUT REGARD TO TOWNSHIP LINES.

The General Assembly of North Carolina enacts:

Section 1. The first three sentences of G.S. 163-128(a) are deleted and the following inserted in their place:

"Each county shall be divided into a convenient number of precincts for purpose of voting. Provided, however, that upon a resolution adopted by the County Board of Elections a precinct may encompass territory from more than one township. When such a resolution has been adopted by the County Board of Elections to assign voters from more than one township to the same precinct, then the County Board of Elections shall maintain registration and voting records, consistent with the procedure prescribed by the State Board of Elections, so as to properly identify the township in which such voters reside."

Sec. 2. This act applies to Catawba County only.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of July, 1981.

H. B. 1268  CHAPTER 851
AN ACT TO REMOVE 1.8897 ACRES OF LAND FROM THE CORPORATE LIMITS OF THE CITY OF SALISBURY TO CHANGE THE COURSE OF A PORTION OF THE EXISTING CITY BOUNDARY AND DE-ANNEX THE PROPERTY WHICH LIES ON THE NORTHEAST SIDE OF THE NEW TOWN BOUNDARY.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Salisbury, Chapter 231, Private Laws of 1927, as amended, is hereby further amended by changing the present city boundary beginning from a point, a new corner of the City of Salisbury in the center line of Seventeenth Street Extended (Corner No. 48-1) said new corner being located 148.88 feet South 23 degrees 29 minutes 36 seconds East from the present corner (Corner No. 48, a granite stone) of the city limits of Salisbury in the center line of Seventeenth Street Extended and running from said new corner, a new boundary line, five lines as follows:

(1) South 34 degrees 08 minutes West 43.35 feet to an iron pipe (Corner 48-2), (2) South 41 degrees 21 minutes 00 seconds West 110 feet to an iron pipe (Corner 48-3), (3) South 49 degrees 21 minutes 00 seconds West 105.1 feet to an iron pipe (Corner 48-4), (4) North 74 degrees 48 minutes 30 seconds West 243.15 feet to an iron pipe (Corner 48-5), and (5) North 23 degrees 28 minutes 33 seconds West 100 feet to an existing corner 47-D in the line of the present city limit of the City of Salisbury, said new boundary line being surveyed and mapped by Hudson and Almond, Registered Land Surveyors, R.L.S. No. 575.

Sec. 2. The 1.8897 acres of land which lie between the old boundary line and the new boundary line described above, said 1.8897 acres being situated on the northern side of the new town boundary, are hereby removed and de-annexed from the corporate limits of the City of Salisbury.

Sec. 3. This act is effective upon ratification.

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In the General Assembly read three times and ratified, this the 7th day of July, 1981.

H. B. 1288

CHAPTER 852

AN ACT TO MAKE CERTAIN TECHNICAL AMENDMENTS TO THE NURSE PRACTICE ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-160 as enacted by Chapter 360 of the 1981 Session Laws is amended by deleting the word “immunity” from the heading thereof.

Sec. 2. Section 2 of North Carolina Session Laws of 1981, Chapter 360, is hereby rewritten to read as follows:

"On January 1, 1982, the terms of office of all board members shall expire and the Governor shall appoint two public members to the board as follows: one for a one-year term and one for a two-year term. The North Carolina Board of Nursing shall conduct an election in 1981 to elect:

(1) for a one-year term: a community health nurse, a nurse educator, and two licensed practical nurses;
(2) for a two-year term: a nurse educator, a nurse approved to perform medical acts, a hospital employed director of nursing services, and one licensed practical nurse; and
(3) for a three-year term: one nurse educator, one nurse employed by a physician primarily engaged in the private practice of medicine, one registered nurse employed by a skilled or intermediate care facility, one registered nurse employed by a hospital and primarily engaged in providing patient care services, and one licensed practical nurse.

Thereafter, members shall serve a three-year term and shall be selected as provided in G.S. 90-160."

Sec. 3. G.S. 90-163 as enacted by Chapter 360 of the 1981 Session Laws is amended by rewriting the second sentence thereof to read as follows: “The board may take any of the actions specified above in this section when a registered nurse approved to perform medical acts has violated rules governing the performance of medical acts by a registered nurse; provided this shall not interfere with the authority of the Board of Medical Examiners to enforce rules and regulations governing the performance of medical acts by a registered nurse.”

Sec. 4. G.S. 90-160.2(14) as enacted by Chapter 665 of the 1981 Session Laws is rewritten to read as follows: “appoint and maintain a subcommittee of the board to work jointly with the subcommittee of the Board of Medical Examiners to develop rules and regulations to govern the performance of medical acts by registered nurses and to determine reasonable fees to accompany an application for approval or renewal of such approval as provided in G.S. 90-6. The fees and rules developed by this subcommittee shall govern the performance of medical acts by registered nurses and shall become effective when they have been adopted by both boards.”

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of July, 1981.
AN ACT TO BE CALLED THE UNMARKED HUMAN BURIAL AND HUMAN SKELETAL REMAINS PROTECTION ACT.

The General Assembly of North Carolina enacts:

Section 1. The title of Chapter 70 of the General Statutes is amended to read, "Indian Antiquities, Archaeological Resources and Unmarked Human Skeletal Remains Protection."

Sec. 2. A new Article is added to Chapter 70 of the General Statutes to read:

"ARTICLE 3.

"Unmarked Human Burial and Human Skeletal Remains Protection Act.

"§ 70-6.1. Short title.—This Article shall be known as "The Unmarked Human Burial and Human Skeletal Remains Protection Act."

"§ 70-6.2. Findings and purpose.—(a) The General Assembly finds that:

(1) unmarked human burials and human skeletal remains are subject to vandalism and inadvertent destruction at an ever-increasing rate;

(2) existing State laws do not provide adequate protection to prevent damage to and destruction of these remains;

(3) there is a great deal of scientific information to be gained from the proper excavation, study and analysis of human skeletal remains recovered from such burials; and

(4) there has been no procedure for descendants or other interested individuals to make known their concerns regarding disposition of these remains.

(b) The purpose of this Article is (i) to provide adequate protection from vandalism for unmarked human burials and human skeletal remains, (ii) to provide adequate protection for unmarked human burials and human skeletal remains not within the jurisdiction of the medical examiner pursuant to G.S. 130-198 that are encountered during archaeological excavation, construction, or other ground disturbing activities, found anywhere within the State except on federal land, and (iii) to provide for adequate skeletal analysis of remains removed or excavated from unmarked human burials if the analysis would result in valuable scientific information.

"§ 70-6.3. Definitions.—As used in this Article:

(1) 'Chief Archaeologist' means the Chief Archaeologist, Archaeology Branch, Archaeology and Historic Preservation Section, Division of Archives and History, Department of Cultural Resources.

(2) 'Executive Director' means the Executive Director of the North Carolina Commission of Indian Affairs.

(3) 'Human skeletal remains' or 'remains' means any part of the body of a deceased human being in any stage of decomposition.

(4) 'Professional archaeologist' means a person having (i) a postgraduate degree in archaeology, anthropology, history, or another related field with a specialization in archaeology, (ii) a minimum of one year's experience in conducting basic archaeological field research, including the excavation and removal of human skeletal remains, and (iii) designed and executed an archaeological study and presented the written results and interpretations of such study.
(5) 'Skeletal analyst' means a person having (i) a postgraduate degree in a field involving the study of the human skeleton such as skeletal biology, forensic osteology or other relevant aspects of physical anthropology or medicine, (ii) a minimum of one year's experience in conducting laboratory reconstruction and analysis of skeletal remains, including the differentiation of the physical characteristics denoting cultural or biological affinity, and (iii) designed and executed a skeletal analysis, and presented the written results and interpretations of such analysis.

(6) 'Unmarked human burial' means any interment of human skeletal remains for which there exists no grave marker or any other historical documentation providing information as to the identity of the deceased.

"§ 70-6.4. Discovery of remains and notification of authorities.—(a) Any person knowing or having reasonable grounds to believe that unmarked human burials or human skeletal remains are being disturbed, destroyed, defaced, mutilated, removed, or exposed, shall notify immediately the medical examiner of the county in which the remains are encountered.

(b) If the unmarked human burials or human skeletal remains are encountered as a result of construction or agricultural activities, disturbance of the remains shall cease immediately and shall not resume without authorization from either the county medical examiner or the Chief Archaeologist, under the provisions of G.S. 70-6.5(c) or G.S. 70-6.5(d).

(c) (1) If the unmarked human burials or human skeletal remains are encountered by a professional archaeologist, as a result of survey or test excavations, the remains may be excavated and other activities may resume after notification, by telephone or registered letter, is provided to the Chief Archaeologist. The treatment, analysis and disposition of the remains shall come under the provisions of G.S. 70-6.9 and G.S. 70-6.10.

(2) If a professional archaeologist directing long-term (research designed to continue for one or more field seasons of four or more weeks' duration) systematic archaeological research sponsored by any accredited college or university in North Carolina, as a part of his research, recovers Native American skeletal remains, he may be exempted from the provisions of G.S. 70-6.5, G.S. 70-6.6, G.S. 70-6.7, G.S. 70-6.8, G.S. 70-6.9 and G.S. 70-6.10(c) of this Article so long as he:

a. notifies the Executive Director within five working days of the initial discovery of Native American skeletal remains;

b. reports to the Executive Director, at agreed upon intervals, the status of the project;

c. curates the skeletal remains prior to ultimate disposition; and

d. conducts no destructive skeletal analysis without the express permission of the Executive Director.

Upon completion of the project fieldwork, the professional archaeologist, in consultation with the skeletal analyst and the Executive Director, shall determine the schedule for the completion of the skeletal analysis. In the event of a disagreement, the time for completion of the skeletal analysis shall not exceed four years. The Executive Director shall have authority concerning the ultimate disposition of the Native American skeletal remains after analysis is completed in accordance with G.S. 70-6.10(a) and G.S. 70-6.11(b) and (c).
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(d) The Chief Archaeologist shall notify the Chief, Medical Examiner Section, Division of Health Services, Department of Human Resources, of any reported human skeletal remains discovered by a professional archaeologist.

"§ 70-6.5. Jurisdiction over remains.—(a) Subsequent to notification of the discovery of an unmarked human burial or human skeletal remains, the medical examiner of the county in which the remains were encountered shall determine as soon as possible whether the remains are subject to the provisions of G.S. 130-198.

(b) If the county medical examiner determines that the remains are subject to the provisions of G.S. 130-198, he will immediately proceed with his investigation.

(c) If the county medical examiner determines that the remains are not subject to the provisions of G.S. 130-198, he shall so notify the Chief Medical Examiner. The Chief Medical Examiner shall notify the Chief Archaeologist of the discovery of the human skeletal remains and the findings of the county medical examiner. The Chief Archaeologist shall immediately take charge of the remains.

(d) Subsequent to taking charge of the human skeletal remains, the Chief Archaeologist shall have 48 hours to make arrangements with the landowner for the protection or removal of the unmarked human burial or human skeletal remains. The Chief Archaeologist shall have no authority over the remains at the end of the 48-hour period and may not prohibit the resumption of the construction or agricultural activities without the permission of the landowner.

"§ 70-6.6. Archaeological investigation of human skeletal remains.—(a) If an agreement is reached with the landowner for the excavation of the human skeletal remains, the Chief Archaeologist shall either designate a member of his staff or authorize another professional archaeologist to excavate or supervise the excavation.

(b) The professional archaeologist excavating human skeletal remains shall report to the Chief Archaeologist, either in writing or by telephone, his opinion on the cultural and biological characteristics of the remains. This report shall be transmitted as soon as possible after the commencement of excavation, but no later than two full business days after the removal of a burial.

(c) The Chief Archaeologist, in consultation with the professional archaeologist excavating the remains, shall determine where the remains shall be held subsequent to excavation, pending other arrangements according to G.S. 70-6.7 or G.S. 70-6.8.

(d) The Department of Cultural Resources may obtain administrative inspection warrants pursuant to the provisions of Chapter 15, Article 4A of the General Statutes to enforce the provisions of this Article, provided that prior to the requesting of the administrative warrant, the Department shall contact the affected landowners and request their consent for access to their land for the purpose of gathering such information. If consent is not granted, the Department shall give reasonable notice of the time, place and before whom the administrative warrant will be requested so that the owner or owners may have an opportunity to be heard.

"§ 70-6.7. Consultation with the Native American Community.—(a) If the professional archaeologist determines that the human skeletal remains are Native American, the Chief Archaeologist shall immediately notify the Executive Director of the North Carolina Commission of Indian Affairs. The
Executive Director shall notify and consult with the Eastern Band of Cherokee or other appropriate tribal group or community.

(b) Within four weeks of the notification, the Executive Director shall communicate in writing to the Chief Archaeologist, the concerns of the Commission of Indian Affairs and an appropriate tribal group or community with regard to the treatment and ultimate disposition of the Native American skeletal remains.

(c) Within 90 days of receipt of the concerns of the Commission of Indian Affairs, the Chief Archaeologist and the Executive Director, with the approval of the principal tribal official of an appropriate tribe, shall prepare a written agreement concerning the treatment and ultimate disposition of the Native American skeletal remains. The written agreement shall include the following:

1. designation of a qualified skeletal analyst to work on the skeletal remains;
2. the type of analysis and the specific period of time to be provided for analysis of the skeletal remains;
3. the timetable for written progress reports and the final report concerning the skeletal analysis to be provided to the Chief Archaeologist and the Executive Director by the skeletal analyst; and
4. a plan for the ultimate disposition of the Native American remains subsequent to the completion of adequate skeletal analysis.

If no agreement is reached within 90 days, the Archaeological Advisory Committee shall determine the terms of the agreement.

§ 70-6.8. Consultation with other individuals.—(a) If the professional archaeologist determines that the human skeletal remains are other than Native American, the Chief Archaeologist shall publish notice that excavation of the remains has occurred, at least once per week for four successive weeks in a newspaper of general circulation in the county where the burials or skeletal remains were situated, in an effort to determine the identity or next of kin or both of the deceased.

(b) If the next of kin are located, within 90 days the Chief Archaeologist in consultation with the next of kin shall prepare a written agreement concerning the treatment and ultimate disposition of the skeletal remains. The written agreement shall include:

1. designation of a qualified skeletal analyst to work on the skeletal remains;
2. the type of analysis and the specific period of time to be provided for analysis of the skeletal remains;
3. the timetable for written progress reports and the final report concerning the skeletal analysis to be provided to the Chief Archaeologist and the next of kin by the skeletal analyst; and
4. a plan for the ultimate disposition of the skeletal remains subsequent to the completion of adequate skeletal analysis.

If no agreement is reached, the remains shall be handled according to the wishes of the next of kin.

§ 70-6.9. Skeletal analysis.—(a) Skeletal analysis conducted under the provisions of this Article shall only be accomplished by persons having those qualifications expressed in G.S. 70-6.3(5).
(b) Prior to the execution of the written agreements outlined in G.S. 70-6.7(c) and G.S. 70-6.8(b), the Chief Archaeologist shall consult with both the professional archaeologist and the skeletal analyst investigating the remains.

(c) The professional archaeologist and the skeletal analyst shall submit a proposal to the Chief Archaeologist within the 90-day period set forth in G.S. 70-6.7(c) and G.S. 70-6.8(b), including:

1. methodology and techniques to be utilized;
2. research objectives;
3. proposed time schedule for completion of the analysis; and
4. proposed time intervals for written progress reports and the final report to be submitted.

(d) If the terms of the written agreement are not substantially met, the Executive Director or the next of kin, after consultation with the Chief Archaeologist, may take possession of the skeletal remains. In such case, the Chief Archaeologist may ensure that appropriate skeletal analysis is conducted by another qualified skeletal analyst prior to ultimate disposition of the skeletal remains.

§ 70-6.10. Disposition of human skeletal remains.—(a) If the skeletal remains are Native American, the Executive Director, after consultation with an appropriate tribal group or community, shall determine the ultimate disposition of the remains after the analysis.

(b) If the skeletal remains are other than Native American and the next of kin have been identified, the next of kin shall have authority concerning the ultimate disposition of the remains after the analysis.

(c) If the Chief Archaeologist has received no information or communication concerning the identity or next of kin of the deceased, the skeletal remains shall be transferred to the Chief Archaeologist, and permanently curated according to standard museum procedures after adequate skeletal analysis.

§ 70-6.11. Financial responsibility.—(a) The provisions of this Article shall not require that the owner of the land on which the unmarked human burials or human skeletal remains are found, bear the cost of excavation, removal, analysis or disposition.

(b) If a determination is made by the Executive Director, in consultation with an appropriate tribal group or community, that Native American skeletal remains shall be reinterred following the completion of skeletal analysis, an appropriate tribal group or community may provide a suitable burial location. If it elects not to do so, it shall be the responsibility of the North Carolina Commission of Indian Affairs to provide a suitable burial location.

(c) The expense of transportation of Native American remains to the reburial location shall be borne by the party conducting the excavation and removal of the skeletal remains. The reburial ceremony may be provided by an appropriate tribal group or community. If it elects not to do so, the reburial ceremony shall be the responsibility of the Commission of Indian Affairs.

§ 70-6.12. Prohibited acts.—(a) No person, unless acting under the provisions of G.S. 130-198 through G.S. 130-201, shall:

1. knowingly acquire any human skeletal remains removed from unmarked burials in North Carolina after October 1, 1981, except in accordance with the provisions of this Article;
2. knowingly exhibit or sell any human skeletal remains acquired from unmarked burials in North Carolina; or

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(3) knowingly retain human skeletal remains acquired from unmarked burials in North Carolina after October 1, 1981, for scientific analysis beyond a period of time provided for such analysis pursuant to the provisions of G.S. 70-6.7, G.S. 70-6.8 and G.S. 70-6.9, with the exception of those skeletal remains curated under the provisions of G.S. 70-6.10.

(b) Other provisions of criminal law concerning vandalism of unmarked human burials or human skeletal remains may be found in G.S. 14-149.

"§ 70-6.13. Rule making authority.—The North Carolina Historical Commission may promulgate rules and regulations to implement the provisions of this Article.

"§ 70-6.14. Exceptions.—(a) Human skeletal remains acquired from commercial biological supply houses or through medical means are not subject to the provisions of G.S. 70-6.12(a).

(b) Human skeletal remains determined to be within the jurisdiction of the medical examiner according to the provisions of G.S. 130-198 are not subject to the prohibitions contained in this Article.

"§ 70-6.15. Penalties.—(a) Violation of the provisions of G.S. 70-6.4 is a misdemeanor.

(b) Violation of the provisions of G.S. 70-6.12(a) is a Class H felony."

Sec. 4. G.S. 14-148 is amended by designating subsection (b) as subsection (c) and adding a new subsection (b) to read:

"(b) The provisions of this section shall not apply to a professional archaeologist as defined in G.S. 70-6.3(4) acting pursuant to the provisions of Article 3 of Chapter 70 of the General Statutes."

Sec. 5. G.S. 14-149 is amended by designating the current language as subsection (a) and adding a new subsection (b) to read:

"(b) The provisions of this section shall not apply to a professional archaeologist as defined in G.S. 70-6.3(4) acting pursuant to the provisions of Article 3 of Chapter 70 of the General Statutes."

Sec. 6. This act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 7th day of July, 1981.

H. B. 1235

CHAPTER 854

AN ACT TO REGULATE HUNTING AND FISHING ON THE REGISTERED PROPERTY OF ANOTHER.

The General Assembly of North Carolina enacts:

Section 1. Subchapter IV of Chapter 113 of the General Statutes is amended to add a new Article as follows:

"ARTICLE 21A.

“Regulating Hunting and Fishing on the Registered Property of Another.

"§ 113-281. Definitions.—In addition to the definitions in Article 12 of this Chapter, the following definitions apply in this Article:

(1) Entry Permit. The permit described in G.S. 113-283.

(2) Posted Property. Registered property that is posted in substantial compliance with G.S. 113-282(d).
(3) Registered Property. Property that has been accepted for registration by the Wildlife Resources Commission as provided in G.S. 113-282, and has not been deleted from registration.

(4) Registrant. A current applicant of record for a tract of registered property.

“§ 113-282. Registration and posting of property.—(a) A person who controls the hunting, fishing, or hunting and fishing rights to a tract of property and wishes to register it under this Article must apply to the Wildlife Resources Commission in accordance with this section.

(b) The registration application must contain:

(1) A statement under oath by the applicant that he has the right to control hunting or fishing, or both, on the tract of property to be registered. If the applicant is not a landholder, he must file a copy of his lease or other document granting him control of hunting, fishing, or hunting and fishing rights on the tract.

(2) Three copies of a description of the tract that will allow law enforcement officers to determine in the field, and prove in court, whether an individual is within the boundaries of the tract. This description may take the form of a map, plat, aerial photograph showing boundaries, diagram keyed to known landmarks, or any other document or description that graphically demarks the boundaries with sufficient accuracy for use by officers in court and in the field. Any amendment of the boundaries of a registered tract must be accomplished by a new registration application meeting the requirements of this subsection.

(3) An agreement by the applicant to post the tract in accordance with the requirements of this section and to make a continuing effort to maintain posted notices for the tract.

(4) An agreement by the applicant to issue or cause issuance of an entry permit to all individuals to whom he or his authorized agent gives permission to hunt or fish on the tract. The applicant must file the name and signature of any agent authorized by him to issue the entry permit, and a registrant must amend his application to rescind the agent’s authority and to substitute or add an authorized agent.

(5) A fee of ten dollars ($10.00) to cover the administrative costs of processing the registration application.

(c) The Executive Director must examine any submitted application to determine whether the requirements of subsection (b) have been fully met. If he determines that these requirements have been met and if his inquiries of persons with knowledge of the locality of the tract corroborate the truthfulness and accuracy of the information in the application, he must register the tract of property and notify the registrant of his action. Registration consists of filing the application in a central registry open to the public with an indication whether the property is registered as to hunting, fishing, or both. Upon registration, the Executive Director must send, for the information of protectors and other law enforcement officers, the two duplicate copies of the description of the tract as follows: (1) to the sheriff of the county in which the tract is located, or to the chief of the county police department if such a department is the primary agency enforcing the criminal laws in a county; and (2) to an appropriate protector stationed in the area where the tract is located. The Executive Director must also furnish officers with copies of the signatures
of registrants and their authorized agents and other pertinent information for enforcement of this Article.

(d) A registrant must post his registered property as soon as practicable after receiving notice that the tract was accepted for registration. Posted notices must measure at least 120 square inches; contain the word 'POSTED' in letters at least three inches high; state that the property is registered with the Wildlife Resources Commission and that hunting or fishing, or both, are prohibited without an entry permit; and set out the name and address and, if feasible, the telephone number of the person to contact for an entry permit. At least one notice must be conspicuously posted on the registered property not more than 200 yards apart close to and along the boundaries. In any event at least one notice must be placed on each side of the registered property, one at each corner, and one at each point of entry. A point of entry is where a roadway, trail, path, or other way likely to be used by entering sportsmen leads into the tract. If registered property is posted only with respect to fishing, it is sufficient if the notices prohibit fishing without permission, and are posted at intervals of not more than 200 yards along the stream or shoreline and at points of entry likely to be used by fishermen. Notices posted along the boundaries of a tract must face in the direction that they will be most likely seen by persons entering the tract. Notices posted along a stream or shoreline must face in the direction that they will most likely be seen by anyone intending to fish. With respect to any particular hunter or fisherman, or person who has entered to hunt or fish, there is substantial compliance with this subsection, notwithstanding that one or more of the required notices may be absent, illegible, or improperly placed, if any notice is or has been reasonably visible to him while he was within or approaching the registered tract.

(e) If a registrant loses his proprietary interest or his control of the hunting, fishing, or hunting and fishing rights as to which he has registered the property, he must within 20 days notify the Executive Director. If a new person who controls those rights wishes to continue the registration of the tract, he must make application under the terms of subsection (b), except that no copies of the tract's description need be filed if there is no change of boundaries. When the Executive Director receives the notice under this subsection, or otherwise learns that a registrant has lost his proprietary control of the applicable hunting, fishing, or hunting and fishing rights, and there is no pending application to continue registration of the tract, the Executive Director must immediately delete registration of the tract, notify the presently responsible landholder, and require him to remove any remaining posted notices.

(f) A person who controls the hunting, fishing, or hunting and fishing rights to registered property may apply to the Wildlife Resources Commission in writing to delete the registration of the tract. If he is not the registrant, he must satisfy the Executive Director of his present right to control the applicable hunting and fishing rights. If he is the registrant, his statement that he still controls the applicable rights on the tract is sufficient unless the Executive Director has reason to require further evidence on this point. Upon determination that an application to delete is proper, the Executive Director must immediately delete registration of the tract, notify the presently responsible landholder, and require him to remove any remaining posted notices.
(g) Any law enforcement officer or any employee of the Wildlife Resources Commission who determines that a registrant has failed to keep registered property posted in compliance with subsection (d) must so notify the registrant or his agent. If within a reasonable time after notice the registrant fails to take steps to post or repost the tract, or if without regard to notice a registrant is inexcusably or repeatedly negligent in failing to keep the tract properly posted, the Executive Director must immediately delete registration of the tract, notify the presently responsible landholder, and require him to remove any remaining posted notices.

(h) A landholder’s failure to cause the removal of all posted signs within a reasonable time after receipt of notice that the tract has been deleted from registration is a misdemeanor punishable as provided in G.S. 113-135.

"§ 113-283. Entry permits furnished by Wildlife Resources Commission.—(a) Upon registration of property, the Executive Director must furnish the registrant with a reasonable number of standardized permit forms to be carried by individuals given permission to hunt or fish on the registered property. The Executive Director must establish a procedure for resupplying registrants with entry permits for their registered property as needed.

(b) To be valid, the entry permit must be issued and dated within the previous 12 months and signed by the registrant or an authorized agent whose signature is on file with the Wildlife Resources Commission.

"§ 113-284. Affirmative duty of sportsmen to determine if property is registered and posted.—Every individual who enters the property of another to hunt or fish without first having obtained permission from an authorized person in control of hunting and fishing rights or his agent is under a duty to look for posted notices. In the apparent absence of such notices, the individual intending to enter is nevertheless under a duty to determine if practicable whether the property is registered under the terms of this Article.

"§ 113-285. Hunting or fishing on registered property of another without permission.—(a) No one may hunt or fish, or enter to hunt or fish, on the registered and posted property of another without having in possession a valid entry permit issued to him.

(b) No one may hunt or fish, or enter to hunt or fish, on the registered property of another without having in possession a valid entry permit issued to him if he has reason to know the property had been posted.

(c) A violation of this section is a misdemeanor punishable as provided in G.S. 113-135.

"§ 113-286. Removal, destruction, or mutilation of posted notices.—Unauthorized removal, destruction, or mutilation of posted notices on registered property is a misdemeanor punishable by a fine of not less than fifty dollars ($50.00), imprisonment not to exceed 90 days, or both.

"§ 113-287. General provisions pertaining to enforcement of Article.—(a) If property is registered, the original or a true copy of the application and all supporting items are admissible in evidence. The registrant’s affidavit that he has the right to control hunting, fishing, or hunting and fishing on the registered property constitutes prima facie evidence of the facts so asserted. The description filed with the application constitutes prima facie evidence of the boundaries of the registered property.

(b) If an individual hunts or fishes, or enters to hunt or fish, on registered property that is or had been posted, any registrant or his agent, any landholder
of that property, and any protector or other law enforcement officer may
request that the individual produce a valid entry permit.

c) In addition to protectors, it is the duty of sheriffs and their deputies,
county police officers, and other law enforcement officers with general
enforcement jurisdiction to investigate reported violations of this Article and to
initiate prosecutions when they determine that violations have occurred.

d) Any entry permit issued to an individual does not substitute for any
required hunting or fishing license.”

Sec. 2. This act shall become effective January 1, 1982.
In the General Assembly read three times and ratified, this the 7th day of
July, 1981.

H. B. 1265  CHAPTER 855

AN ACT TO AMEND THE TAX LAW IN RELATION TO AN
INTERNATIONAL BANKING FACILITY.

Whereas, this State in recent years has greatly expanded its international
trade and the future holds even greater promise for the industries of this State
to participate in worldwide markets; and

Whereas, this expanded trade must necessarily have readily available
international banking facilities conveniently available; and

Whereas, the expansion of international banking within the State would
result in additional directly related employment and further the position of this
State in international trade; and

Whereas, the General Assembly by the adoption of this act intends to
provide for the exemption of international banking facilities from State and
local taxation and thereby make it possible for such facilities to be established
in this State on a competitive basis; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-130.5(b) is hereby amended by adding a new
paragraph (13) to read:

“(13) The eligible income of an international banking facility to the extent
included in determining federal taxable income, determined as follows:

(A) ‘International banking facility’ shall have the same meaning as is set
forth in the laws of the United States or regulations of the Board of
Governors of the federal reserve system.

(B) The eligible income of an international banking facility for the taxable
year shall be an amount obtained by multiplying State taxable income as
determined under G.S. 105-130.3 (determined without regard to eligible
income of an international banking facility and allocation and
apportionment, if applicable) for such year by a fraction, the
denominator of which shall be the gross receipts for such year derived
by the bank from all sources, and the numerator of which shall be the
adjusted gross receipts for such year derived by the international
banking facility from:

(i) making, arranging for, placing or servicing loans to foreign persons
substantially all the proceeds of which are for use outside the United
States;

(ii) making or placing deposits with foreign persons which are banks or
foreign branches of banks (including foreign subsidiaries or foreign
branches of the taxpayer) or with other international banking facilities; or
(iii) entering into foreign exchange trading or hedging transactions related to any of the transactions described in this paragraph.
(C) The adjusted gross receipts shall be determined by multiplying the gross receipts of the international banking facility by a fraction the numerator of which is the average amount for the taxable year of all assets of the international banking facility which are employed outside the United States and the denominator of which is the average amount for the taxable year of all assets of the international banking facility.
(D) For the purposes of this subsection the term ‘foreign person’ means:
(i) an individual who is not a resident of the United States;
(ii) a foreign corporation, a foreign partnership or a foreign trust, as defined in Section 7701 of the Internal Revenue Code of 1954, other than a domestic branch thereof;
(iii) a foreign branch of a domestic corporation (including the taxpayer);
(iv) a foreign government or an international organization or an agency of either, or
(v) an international banking facility.

For purposes of this paragraph, the terms ‘foreign’ and ‘domestic’ shall have the same meaning as set forth in Section 7701 of the Internal Revenue Code of 1954.’’

Sec. 2. G.S. 105-102.3 is hereby amended to read as follows:

‘§ 105-102.3. Banks.—There is hereby imposed upon every bank or banking association, including each national banking association, that is operating in this State as a commercial bank, an industrial bank, a savings bank, a trust company, or any combination of such facilities or services, and whether such bank or banking association, hereinafter to be referred to as a bank or banks, be organized, under the laws of the United States or the laws of North Carolina, in the corporate form or in some other form of business organization, an annual privilege tax in the amount of thirty dollars ($30.00) for each one million dollars ($1,000,000) or fractional part thereof of total assets held as hereinafter provided. The assets upon which the tax is levied shall be determined by averaging the total assets shown in the four quarterly call reports of condition (consolidating domestic subsidiaries) for the preceding calendar year as required by bank regulatory authorities; provided, however, where a new bank commences operations within the State there shall be levied and paid an annual privilege tax of one hundred dollars ($100.00) until such bank shall have made four quarterly call reports of condition (consolidating domestic subsidiaries) for a single calendar year; provided further, however, where a bank operates an international banking facility, as defined in G.S. 105-130.5(b)(13), the assets upon which the tax is levied shall be reduced by the average amount for the taxable year of all assets of the international banking facility which are employed outside the United States, as computed pursuant to G.S. 105-130.5(b)(13)(C). The tax imposed hereunder shall be for the privilege of carrying on the businesses herein defined on a statewide basis regardless of the number of places or locations of business within the State. Counties, cities and towns shall not levy a license or privilege tax on the businesses taxed under this section, nor on the business of an international banking facility as defined in subsection (b)(13) of G.S. 105-130.5.’”
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Sec. 3. G.S. 105-122(b) is hereby amended by adding at the end of the first unnumbered paragraph the following sentences:

"In the case of an international banking facility, the capital base shall be reduced by the excess of the amount as of the end of the taxable year of all assets of an international banking facility which are employed outside the United States over liabilities of the international banking facility owed to foreign persons. For purposes of such reduction, foreign persons shall have the same meaning as defined in G.S. 105-130.5(b)(13)(D)."

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of July, 1981.

H. B. 1284  CHAPTER 856

AN ACT TO AMEND PART 10 OF ARTICLE 10 OF CHAPTER 143B OF THE GENERAL STATUTES OF NORTH CAROLINA, RELATING TO THE NORTH CAROLINA STATE PORTS AUTHORITY, AS TO THE ISSUANCE OF BONDS AND NOTES AND THE FINANCING OF FACILITIES AND IMPROVEMENTS FOR PRIVATE PARTIES.

The General Assembly of North Carolina enacts:

Section 1. Section 143B-456 of the General Statutes is hereby amended to read as follows:

"§ 143B-456. Issuance of bonds and notes.—(a) As a means of raising the funds needed from time to time in the acquisition, construction, equipment, maintenance or operation of any facility, building, structure or any other matter or thing which the Authority is authorized to acquire, construct, equip, maintain, or operate, all or any of them, including authorized special user projects, the Authority is hereby authorized, at one time or from time to time, to borrow money and in evidence thereof to issue bonds, notes and other obligations of the Authority as provided in this Part. Bonds, notes and other obligations may also be issued to (i) establish such reserves as the Authority may determine to be desirable including, without limitation, a debt service reserve fund, and (ii) provide for interest during the estimated period of construction and for a reasonable period thereafter and to provide for working capital.

The principal of and the interest on such bonds or notes shall be payable solely from the funds herein provided for such payment. Any such notes may be made payable from the proceeds of bonds or renewal notes or, in the event bond or renewal note proceeds are not available, such notes may be paid from any available revenues, income or assets of the Authority. The bonds or notes of each issue shall be dated and may be made redeemable before maturity at the option of the Authority at such price or prices and under such terms and conditions as may be determined by the Authority. Any such bonds or notes shall bear interest at such rate or rates, including variable rates, as may be determined by the Authority. Notes shall mature at such time or times not exceeding 10 years from their date or dates and bonds shall mature at such time or times not exceeding 40 years from their date or dates, as may be determined by the Authority.

(b) Prior to the sale and delivery of any bonds or notes by the Authority, the Advisory Budget Commission shall approve the general purposes of and the
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general security provisions for any such bonds or notes. Such bonds or notes may be sold in such manner, either at public or private sale, and for such price as the Authority shall determine. Bonds or notes may be issued under the provisions of this Part without obtaining, except as otherwise expressly provided in this Part, the consent of any department, division, commission, board, body, bureau or agency of the State, and without any other proceedings or the happening of any conditions or things other than those proceedings, conditions or things which are specifically required by this Part and the provisions of the resolution authorizing the issuance of such bonds or notes or the trust agreement securing the same.

(c) In the discretion of the Authority any obligations issued under the provisions of this Part may be secured by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the State and, in the case of an authorized special user project, a deed of trust of which the trustee may be an individual who is a resident of the State. It shall be lawful for any bank or trust company incorporated under the laws of the State which may act as depository of the proceeds of obligations, revenues or other money under this Part to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. The pledge of any assets, income or revenues of the Authority to the payment of the principal of or the interest on any obligations of the Authority shall be valid and binding from the time when the pledge is made and any such assets, income or revenues shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such parties have notice thereof.

(d) The resolution authorizing any obligations or the trust agreement securing the same may provide that any moneys held pursuant thereto may be temporarily invested pending the disbursement thereof and shall provide that any officer with whom, or any bank or trust company with which, such moneys shall be deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as this Part and such resolution or trust agreement may provide. Any such moneys or any other moneys of the Authority may be invested as provided in G.S. 159-30 or any successor provision thereof.

(e) Obligations issued under the provisions of this Part are hereby made securities in which all public officers and public bodies of the State and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such obligations are hereby made securities which may properly and legally be deposited with and received by any State or municipal officer or any agency or political subdivision of the State for any purpose for which the deposit of bonds, notes or obligations of the State is now or may hereafter be authorized by law.

(f) The Authority is hereby authorized to provide for the issuance of refunding obligations for the purpose of refunding any obligations then outstanding which shall have been issued under the provisions of this Part, including the payment of any redemption premium thereon and any interest

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accrued or to accrue to the date of redemption of such obligations and, if deemed advisable by the Authority, for any corporate purpose of the Authority. The issuance of such obligations, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the Authority in respect of the same shall be governed by the provisions of this Part which relate to the issuance of obligations, insofar as such provisions may be appropriate therefor.

Refunding obligations may be sold or exchanged for outstanding obligations issued under this Part and, if sold, the proceeds thereof may be applied, in addition to any other authorized purposes, to the purchase, redemption or payment of such outstanding obligations.

(g) Any obligations issued by the Authority under the provisions of this Part, their transfer and the income therefrom (including any profit made on the sale thereof), shall at all times be free from taxation by the State or any local unit or political subdivision or other instrumentality of the State, excepting inheritance or gift taxes.

(h) Obligations issued under the provisions of this Part shall not be deemed to constitute a debt, liability or obligation of the State or of any other public body in the State secured by a pledge of the faith and credit of the State or of any other public body in the State, respectively, but shall be payable solely from the revenues, income or assets of the Authority pledged thereto. Each obligation issued under this Part shall contain on the face thereof a statement to the effect that the Authority shall not be obligated to pay the same or the interest thereon except from the revenues, income or assets pledged therefor and that neither the faith and credit nor the taxing power of the State or of any other public body in the State is pledged to the payment of the principal of or the interest on such obligation."

Sec. 2. A new section is hereby added to Part 10 of Article 10 of Chapter 143B of the General Statutes to read as follows:

"§ 143B-456.1. Bonds and notes for special user projects.—(a) The Authority is also hereby authorized, subject to the provisions of this section, to issue, at one time or from time to time, bonds and notes to finance special user projects. The term 'special user project' shall mean any land, equipment or any one or more buildings or other structures, whether or not on the same site or sites, and any rehabilitation, improvement, renovation or enlargement of, or any addition to, any building or structure for use as or in connection with any commercial, industrial, manufacturing, processing, mining, transportation, distribution, storage, marine or environmental facility or improvement primarily for the use of one or more private parties. Any such special user project may include all appurtenances and incidental facilities such as land, headquarters or office facilities, restaurant and lodging facilities, warehouses, distribution centers, pollution control facilities, access roads, sidewalks, utilities, railway sidings, trucking and similar facilities, parking facilities, waterways, docks, wharves and other improvements necessary or convenient for ships, tugboats, barges or other vessels or for the construction, maintenance and operation of any building or structure, or addition thereto.

(b) Bonds and notes may be sold to finance special user projects irrespective of the interest limitations set forth in G.S. 24-1.1, as amended, and successor provisions.
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(c) The bonds or notes of each issue of the Authority under this section shall be special, limited obligations of the Authority payable solely from such other revenues, income or assets of the Authority as the Authority shall specifically assign or pledge and such funds, collateral and undertakings as any private parties may assign or pledge therefor.

The financing agreement may provide the Authority with rights and remedies in the event of a default by the obligor thereunder including, without limitation, reentry and repossession or leasing or sale or foreclosure of the special user project to others.

The Authority’s interest in a special user project may be that of owner, lessor, operator, lessee, conditional or installment vendor, mortgagor, mortgagee, secured party or otherwise, but the Authority need not have any ownership or possessory interest in the project, and if that of lessor, the lessee may have an option or an obligation to purchase the special user project upon the expiration or termination of the lease.

(d) Bonds and notes issued under the provisions of this section may be secured by one or more agreements, including forecloseable deeds of trust and other trust instruments, which may pledge and assign to the trustee or the holders of its obligations the assets, revenues, and income provided for the security of the bonds or notes, including proceeds from the sale of any special user project, or part thereof, insurance proceeds and condemnation awards, and third-party agreements, and may convey or mortgage the project and other property and collateral to secure a bond issue.

The Authority may subordinate the bonds or notes or its rights, assets, revenues and income derived from any special user project to any prior, contemporaneous or future securities or obligations or lien, mortgage or other security interest.

(e) Notwithstanding any other provision of law, the Authority may agree that all contracts relating to the acquisition, construction, installation and equipping of the special user project shall be solicited, negotiated, awarded and executed by the private party or parties for which the Authority is financing the special user project or their agents subject only to such approvals by the Authority as the Authority may require. The Authority may, out of the proceeds of bonds or notes, make advances to or reimburse such private parties or such agents for all or a portion of the costs incurred in connection with such contracts. The provisions of Section 143B-463 of this Part shall have no application to funds and moneys derived pursuant to this section.

(f) The provisions of G.S. 25-9-104(e) and G.S. 25-9-302(6) to the contrary notwithstanding, the provisions of Article 9 of the North Carolina Uniform Commercial Code, being G.S. 25-9-101 to G.S. 25-9-607, inclusive, shall apply to transactions under this section to the same extent the provisions of such Article 9 would apply were G.S. 25-9-104(e) and G.S. 25-9-302(6) hereby repealed."

Sec. 3. The last sentence of G.S. 143B-463 reading as follows:

"Any and all revenues and earnings received by the Authority from its operations shall be handled as directed in Section 13, Chapter 820 of the Session Laws of 1949."

is hereby repealed.

Sec. 4. The foregoing provisions of this act shall be deemed to provide an additional and alternative method for the doing of the things authorized thereby and shall be regarded as supplemental and additional to powers
conferred by other laws, and shall not be regarded as in derogation of any powers now existing; provided, however, that the issuance of bonds or notes under the provisions of this act need not comply with the requirements of any other law applicable to the issuance of bonds or notes.

Sec. 5. This act, being necessary for the prosperity of the State and its inhabitants, shall be liberally construed to effect the purposes thereof.

Sec. 6. Insofar as the provisions of this act are inconsistent with the provisions of any general or special laws or parts thereof, the provisions of this act shall be controlling.

Sec. 7. This act is effective upon ratification except for the provisions of Section 2 of this act which shall become effective upon their becoming effective as an amendment to the North Carolina Constitution authorizing the General Assembly to enact laws dealing with the subject matter of Section 2 of this act.

In the General Assembly read three times and ratified, this the 7th day of July, 1981.

H. B. 1303 CHAPTER 857
AN ACT TO PERMIT THE TOWN OF MEbane TO IMPOSE A TAX ON AUTOMOBILES OF THREE DOLLARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-97 is amended by adding immediately after the words “Town of Garner” the words “Town of Mebane”.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of July, 1981.

H. B. 1307 CHAPTER 858
AN ACT TO ALLOW THE TOWN OF PLYMOUTH TO COLLECT ON MOTOR VEHICLES A TAX OF NOT MORE THAN FIVE DOLLARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-97(a), as the same appears in the 1980 Interim Supplement to the General Statutes, is amended by adding after the words “Town of Stoneville” each time they appear the words and punctuation “Town of Plymouth”.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of July, 1981.
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S. B. 29  CHAPTER 859
AN ACT TO MAKE APPROPRIATIONS FOR CURRENT OPERATIONS OF
STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES, AND FOR
OTHER PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. The appropriations made herein are for maximum amounts
necessary to provide the services and accomplish the purposes described in the
budget. Savings shall be effected where the total amounts appropriated are not
required to perform these services and accomplish these purposes and, except as
allowed by the Executive Budget Act, or as hereinafter provided, the savings
shall revert to the appropriate fund at the end of the biennium.

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An outline of the provisions of the act follows this section. The outline
shows the heading “— CONTENTS/INDEX —” and it lists by general
category the descriptive captions for the various sections and groups of sections
that make up the act.

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  Sec. 35.2.
—JOB TRAINING PROGRAM/VANCE-GRANVILLE COMMUNITY COLLEGE
  Sec. 35.3.
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  Sec. 36.
—AID TO PRIVATE COLLEGES/PROCEDURE
  Sec. 37.
  Sec. 38.
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  Sec. 81.
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COMMUNITY DEVELOPMENT
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EXECUTIVE BUDGET ACT REFERENCE

EFFECT OF MOST LIMITATIONS AND DIRECTIONS IN TEXT/ONLY - 1981-83

SEVERABILITY CLAUSE

EFFECTIVE DATE

PART I.—CURRENT OPERATIONS/GENERAL FUND

Sec. 2. Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated are made for the biennium ending June 30, 1983, according to the following schedule:

<table>
<thead>
<tr>
<th>Department</th>
<th>1981-82</th>
<th>1982-83</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Assembly</td>
<td>$8,269,157</td>
<td>$10,466,106</td>
</tr>
<tr>
<td>Judicial Department</td>
<td>87,881,805</td>
<td>90,321,624</td>
</tr>
<tr>
<td>Department of The Governor</td>
<td></td>
<td></td>
</tr>
<tr>
<td>01. Office of The Governor</td>
<td>1,484,867</td>
<td>1,514,146</td>
</tr>
<tr>
<td>02. Office of Citizens Affairs</td>
<td>719,066</td>
<td>746,434</td>
</tr>
<tr>
<td>03. Office of State Budget and Management</td>
<td>2,884,830</td>
<td>2,971,054</td>
</tr>
<tr>
<td>Total Department of The Governor</td>
<td>5,088,763</td>
<td>5,231,634</td>
</tr>
<tr>
<td>Lieutenant Governor’s Office</td>
<td>305,606</td>
<td>312,389</td>
</tr>
<tr>
<td>Department of Secretary of State</td>
<td>761,547</td>
<td>732,974</td>
</tr>
<tr>
<td>Department of State Auditor</td>
<td>5,676,167</td>
<td>5,817,170</td>
</tr>
<tr>
<td>Department of State Treasurer</td>
<td></td>
<td></td>
</tr>
<tr>
<td>01. Operations</td>
<td>1,556,242</td>
<td>1,609,270</td>
</tr>
<tr>
<td>02. Retiree Benefits</td>
<td>14,574,310</td>
<td>15,736,900</td>
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<tr>
<td>03. Law Enforcement Officers’ Retirement - Local’s Share</td>
<td>5,214,000</td>
<td>5,214,000</td>
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<tr>
<td>Total Department of State Treasurer</td>
<td>21,344,552</td>
<td>22,560,170</td>
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<tr>
<td>Department of Public Education</td>
<td></td>
<td></td>
</tr>
<tr>
<td>01. Program Administration and Support</td>
<td>16,702,162</td>
<td>17,235,200</td>
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<tr>
<td>02. Fiscal Administration and Support</td>
<td>1,429,727,901</td>
<td>1,489,660,451</td>
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<tr>
<td>Total Department of Public Education</td>
<td>1,446,430,063</td>
<td>1,506,895,651</td>
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<tr>
<td>Department of Community Colleges</td>
<td>189,180,203</td>
<td>199,802,616</td>
</tr>
<tr>
<td>Department of Justice</td>
<td>24,454,675</td>
<td>24,999,398</td>
</tr>
<tr>
<td>Department of Agriculture</td>
<td>21,625,281</td>
<td>22,281,304</td>
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<tr>
<td>Department of Labor</td>
<td>4,446,677</td>
<td>4,531,357</td>
</tr>
<tr>
<td>Department of Insurance</td>
<td>4,040,385</td>
<td>4,187,924</td>
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<tr>
<td>Department of Administration</td>
<td>32,642,989</td>
<td>34,046,540</td>
</tr>
<tr>
<td>Reserve for Microelectronics</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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<table>
<thead>
<tr>
<th>Department</th>
<th>Fiscal Year 1</th>
<th>Fiscal Year 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Center of North Carolina</td>
<td>2,991,000</td>
<td>21,482,000</td>
</tr>
<tr>
<td><strong>Department of Transportation</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>01. Public Transportation</td>
<td>1,340,000</td>
<td>1,340,000</td>
</tr>
<tr>
<td>02. Aeronautics</td>
<td>3,616,571</td>
<td>3,616,571</td>
</tr>
<tr>
<td>03. Aid to Railroads</td>
<td>100,000</td>
<td>100,000</td>
</tr>
<tr>
<td><strong>Total Department of Transportation</strong></td>
<td>5,056,571</td>
<td>5,056,571</td>
</tr>
<tr>
<td><strong>Department of Natural Resources and Community Development</strong></td>
<td>35,492,245</td>
<td>36,797,141</td>
</tr>
<tr>
<td><strong>Department of Human Resources</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>01. Alcoholic Rehabilitation Center - Black Mountain</td>
<td>2,365,790</td>
<td>2,409,861</td>
</tr>
<tr>
<td>02. Alcoholic Rehabilitation Center - Butner</td>
<td>1,674,513</td>
<td>1,750,732</td>
</tr>
<tr>
<td>03. Alcoholic Rehabilitation Center - Greenville</td>
<td>1,458,945</td>
<td>1,510,664</td>
</tr>
<tr>
<td>04. N.C. Special Care Center</td>
<td>2,902,299</td>
<td>3,016,800</td>
</tr>
<tr>
<td>05. DHR - Administration and Support Program</td>
<td>18,204,292</td>
<td>18,428,916</td>
</tr>
<tr>
<td>06. N.C. School for the Deaf</td>
<td>5,871,884</td>
<td>6,002,684</td>
</tr>
<tr>
<td>08. Central N.C. School for the Deaf</td>
<td>2,266,930</td>
<td>2,384,309</td>
</tr>
<tr>
<td>09. Governor Morehead School</td>
<td>3,585,598</td>
<td>3,673,927</td>
</tr>
<tr>
<td>10. Division of Health Services</td>
<td>49,217,096</td>
<td>49,687,907</td>
</tr>
<tr>
<td>11. Lenox Baker Hospital</td>
<td>382,456</td>
<td>436,694</td>
</tr>
<tr>
<td>12. McCain Hospital</td>
<td>2,767,802</td>
<td>2,749,008</td>
</tr>
<tr>
<td>13. Social Services</td>
<td>64,280,031</td>
<td>61,686,277</td>
</tr>
<tr>
<td>14. Medical Assistance</td>
<td>150,936,885</td>
<td>164,458,078</td>
</tr>
<tr>
<td>15. Social Services - State Aid to Non-State Agencies</td>
<td>3,668,590</td>
<td>3,668,590</td>
</tr>
<tr>
<td>16. Division of Services for the Blind</td>
<td>4,539,472</td>
<td>4,542,342</td>
</tr>
<tr>
<td>17. Division of Mental Health and Mental Retardation Services</td>
<td>54,908,880</td>
<td>55,076,082</td>
</tr>
<tr>
<td>18. Wright School</td>
<td>899,289</td>
<td>931,921</td>
</tr>
<tr>
<td>19. Dorothea Dix Hospital</td>
<td>23,636,908</td>
<td>24,459,132</td>
</tr>
<tr>
<td>20. Broughton Hospital</td>
<td>22,684,434</td>
<td>23,446,761</td>
</tr>
<tr>
<td>21. Cherry Hospital</td>
<td>21,293,472</td>
<td>21,927,118</td>
</tr>
<tr>
<td>22. John Umstead Hospital</td>
<td>19,379,385</td>
<td>19,887,311</td>
</tr>
<tr>
<td>23. Western Carolina Center</td>
<td>5,299,399</td>
<td>5,043,082</td>
</tr>
<tr>
<td>24. O'Berry Center</td>
<td>3,108,225</td>
<td>2,989,865</td>
</tr>
<tr>
<td>25. Murdoch Center</td>
<td>16,504,772</td>
<td>16,692,597</td>
</tr>
<tr>
<td>26. Caswell Center</td>
<td>17,304,539</td>
<td>16,998,781</td>
</tr>
<tr>
<td>27. Division of Facility Services</td>
<td>7,428,863</td>
<td>7,566,067</td>
</tr>
<tr>
<td>28. Division of Vocational Rehabilitation Services</td>
<td>14,900,763</td>
<td>15,393,781</td>
</tr>
<tr>
<td>29. Division of Youth Services</td>
<td>19,060,988</td>
<td>19,741,781</td>
</tr>
<tr>
<td><strong>Total Department of Human Resources</strong></td>
<td>1256</td>
<td></td>
</tr>
<tr>
<td>Resources</td>
<td>544,253,499</td>
<td>560,413,722</td>
</tr>
<tr>
<td>-----------------------------------------------</td>
<td>-------------</td>
<td>-------------</td>
</tr>
<tr>
<td>Department of Correction</td>
<td>154,416,560</td>
<td>161,060,067</td>
</tr>
<tr>
<td>Department of Commerce</td>
<td>17,248,899</td>
<td>17,046,703</td>
</tr>
<tr>
<td>Department of Revenue</td>
<td>26,578,954</td>
<td>27,455,577</td>
</tr>
<tr>
<td>Department of Cultural Resources</td>
<td>18,739,199</td>
<td>19,067,888</td>
</tr>
<tr>
<td>Department of Crime Control and Public Safety</td>
<td>8,133,854</td>
<td>8,415,122</td>
</tr>
</tbody>
</table>

University of North Carolina - Board of Governors

| 01. General Administration                   | 7,383,765   | 7,594,802   |
| 03. Related Educational Programs             | 25,787,075  | 26,858,898  |
| 04. Center for Alcoholic Studies             | 175,000     | 175,000     |
| 05. University of North Carolina at Chapel Hill |             |             |
| a. Academic Affairs                          | 69,688,679  | 71,861,675  |
| b. Division of Health Affairs                | 48,164,765  | 49,164,462  |
| c. Area Health Education Centers             | 18,204,203  | 18,239,876  |
| 06. North Carolina State University at Raleigh |             |             |
| a. Academic Affairs                          | 71,584,532  | 73,709,945  |
| b. Agricultural Research Service             | 19,593,064  | 19,933,395  |
| c. Agricultural Extension Service            | 14,923,831  | 15,129,321  |
| 07. University of North Carolina at Greensboro | 27,037,468  | 27,625,314  |
| 08. University of North Carolina at Charlotte | 21,459,490  | 22,038,150  |
| 09. University of North Carolina at Asheville | 5,026,262   | 5,149,071   |
| 10. University of North Carolina at Wilmington | 11,466,651  | 11,777,978  |
| 11. East Carolina University                 | 49,673,833  | 50,851,900  |
| 12. North Carolina Agricultural and Technical State University | 17,803,183 | 18,574,613 |
| 13. Western Carolina University              | 17,475,601  | 17,893,794  |
| 14. Appalachian State University             | 25,197,031  | 25,649,913  |
| 15. Pembroke State University                | 6,620,934   | 6,738,633   |
| 16. Winston-Salem State University           | 7,508,185   | 7,780,440   |
| 17. Elizabeth City State University 6,298,738 | 7,079,918  | 7,216,897  |
| 18. Fayetteville State University            | 7,079,918   | 7,216,897   |
| 19. North Carolina Central University        | 14,901,764  | 15,328,670  |
| 20. North Carolina School of the Arts        | 4,287,924   | 4,334,072   |
| 21. North Carolina Memorial Hospital         | 24,113,781  | 24,910,683  |
| Total University of North Carolina 545,284,237 | 585,035,825 |

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### CHAPTER 859  
Session Laws—1981

State Board of Elections  
Contingency and Emergency  
Reserve for Salary Adjustments  
Reserve for Retirees' Formula Change  
Reserve for Cost-of-Living Adjustment for Retirees  
Reserve for Travel  
Reserve for Hospital-Medical Rate Increase  
Reserve for Office Furniture and Equipment  
Reserve for Unreduced Retirement Allowance  
Debt Service - Interest  
Debt Service - Redemption  

**Reserve for Salary Adjustments**  
650,000  
650,000  

**Reserve for Retirees' Formula Change**  
2,340,000  
2,340,000  

**Reserve for Cost-of-Living Adjustment for Retirees**  
4,200,000  
4,200,000  

**Reserve for Travel**  
300,000  
300,000  

**Reserve for Hospital-Medical Rate Increase**  
7,109,300  
-  

**Reserve for Office Furniture and Equipment**  
500,000  
-  

**Debt Service - Interest**  
31,562,550  
33,199,000  

**Debt Service - Redemption**  
33,500,000  
36,800,000  

**GRAND TOTAL CURRENT OPERATIONS: GENERAL FUND**  
$3,292,058,346  
$3,453,068,653  

### PART II. CURRENT OPERATIONS/HIGHWAY FUND

Sec. 3. Appropriations from the Highway Fund of the State for the maintenance and operation of the Department of Transportation, and for other purposes as enumerated, are made for the biennium ending June 30, 1983, according to the following schedule:

<table>
<thead>
<tr>
<th>Department of Transportation</th>
<th>1981-82</th>
<th>1982-83</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administration</td>
<td>$14,773,721</td>
<td>$14,941,809</td>
</tr>
<tr>
<td>02. Highways</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Administration and Operations</td>
<td>23,244,984</td>
<td>23,031,879</td>
</tr>
<tr>
<td>b. State Construction</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(01) Primary Construction</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(02) Secondary Construction</td>
<td>30,932,000</td>
<td>40,383,000</td>
</tr>
<tr>
<td>(03) Urban Construction</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(04) Access and Public Service Roads</td>
<td>1,000,000</td>
<td>400,000</td>
</tr>
<tr>
<td>(05) Bridge Replacements</td>
<td></td>
<td></td>
</tr>
<tr>
<td>c. State Funds to Match Federal Highway Aid</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(01) Construction</td>
<td>11,558,423</td>
<td>9,200,000</td>
</tr>
<tr>
<td>(02) Planning Survey and Highway Planning Research</td>
<td>1,156,511</td>
<td>1,594,289</td>
</tr>
<tr>
<td>d. State Maintenance</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(01) Primary</td>
<td>59,505,102</td>
<td>59,505,102</td>
</tr>
<tr>
<td>(02) Secondary</td>
<td>92,641,957</td>
<td>92,641,957</td>
</tr>
<tr>
<td>(03) Urban</td>
<td>14,198,548</td>
<td>14,198,548</td>
</tr>
<tr>
<td>(04) Contract Resurfacing</td>
<td>79,931,037</td>
<td>65,444,037</td>
</tr>
<tr>
<td>e. Ferry Operations</td>
<td>8,349,143</td>
<td>9,349,143</td>
</tr>
<tr>
<td>f. State Aid to Municipalities</td>
<td>30,932,000</td>
<td>40,383,000</td>
</tr>
</tbody>
</table>

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g. Merit Salary Increments for Central Offices and Division of Highways 2,185,552 3,583,012

h. Employers' Contributions for Central Offices and Division of Highways
(01) Social Security 11,285,614 11,212,838
(02) Retirement 15,681,275 15,546,441
(03) Hospital/Medical Insurance 4,701,484 4,654,484

03. Division of Motor Vehicles 33,885,958 35,214,736
04. Governor's Highway Safety Program 142,554 148,128
05. Reserve for Unreduced Retirement Allowance 19,000 19,000
06. Salary Adjustments for Highway Fund Employees 200,000 200,000
07. Debt Service 34,138,000 38,150,000
08. Reserve to Correct Occupational Safety & Health Act Deficiencies 350,000 350,000
09. Reserve for Hospital/Medical Rate Increase 563,000
10. Reserve for Office Furniture and Equipment 60,000
11. Appropriations for Other State Agencies
   01. Crime Control & Public Safety 45,529,880 48,063,979
   02. Other Agencies
      a. Department of Agriculture 1,610,296 1,658,927
      b. Department of Commerce 582,376 586,918
      c. Department of Revenue 1,056,196 1,085,702
      d. Department of Human Resources 222,438 226,992
      e. Department of Correction 500,000 500,000

Contingencies and Emergency Fund 100,000 100,000

GRAND TOTAL CURRENT OPERATIONS—HIGHWAY FUND $ 521,037,049 $ 532,373,921

PART III—SPECIAL PROVISIONS/HIGHWAY FUND CURRENT OPERATIONS—HIGHWAY FUND/ALLOCATIONS BY TRANSPORTATION CONTROLLER

Sec. 4. The Controller of the Department of Transportation shall allocate at the beginning of each fiscal year, from the various appropriations made to the Department of Transportation in Section 3 of this act under Titles
02.b. - State Construction, 02.c. - State Funds to Match Federal Highway Aid, 02.d. - State Maintenance, and 02.e. - Ferry Operations, sufficient funds to eliminate all overdrafts on State maintenance and construction projects, and such allocations may not be diverted to other purposes.

—HIGHWAY FUND/LIMITATIONS ON TRANSFERS

Sec. 5. Transfers may be made by authorization of the Governor as Director of the Budget from Section 3 of this act, Titles 02.b.(01) - State Construction/Primary Construction, 02.b.(03) - State Construction/Urban Construction, 02.b.(04) - State Construction/Access and Public Service Roads, 02.c. - State Funds to Match Federal Highway Aid, 02.d. - State Maintenance, and 02.e. - Ferry Operations, provided that the original appropriation from which the transfer is made shall not be reduced by more than ten percent (10%) without the approval of the Advisory Budget Commission. Transfers from Section 3 of this act, Titles 02.b.(01) - State Construction/Primary Construction, 02.b.(03) - State Construction/Urban Construction, 02.b.(04) - State Construction/Access and Public Service Roads, 02.c. - State Funds to Match Federal Highway Aid, 02.d. - State Maintenance, and 02.e. - Ferry Operations, for the purpose of providing additional positions, shall be approved by the Director of the Budget and the Advisory Budget Commission.

—HIGHWAY FUNDS/ADJUSTMENTS TO REFLECT ACTUAL REVENUE

Sec. 7. Any unreserved credit balance in the Highway Fund on June 30 of each of the 1980-81, 1981-82 and 1982-83 fiscal years, shall support appropriations in the succeeding fiscal year. If all of the balance is not needed for these appropriations, the Director of the Budget may use the remaining excess to establish a reserve for access and public service roads, a reserve for unforeseen happenings or state of affairs requiring prompt action as provided for by G.S. 136-44.2, and other required reserves. If all of the remaining excess is not used to establish these reserves, the remainder shall be allocated to the State-funded maintenance or construction appropriations in the manner that the Board of Transportation deems appropriate.

In the event that Highway Fund revenues are less than the amounts appropriated in this act, State-funded construction and maintenance appropriations shall be reduced to the extent necessary to cover any anticipated Highway Fund deficit.

—HIGHWAY FUND/ADJUSTMENTS TO REFLECT FEDERAL FUNDS CHANGES

Sec. 8. In the event the availability of federal funds or the rate of federal matching for any program under the federal aid construction program is changed during any part of the 1981-83 biennium, the Director of the Budget may authorize transfers of sufficient funds to provide adequate matching for federal aid construction funds. These transfers may be made only in appropriations from Section 3 of this act between Titles 02.b. - State Construction, 02.c. - State Funds to Match Federal Aid and 02.d. - State Maintenance or within the affected federal aid programs. No transfers shall be made from Title 02.d. - State Maintenance, until all available funds from the other sources listed in this section have been utilized.

—CASH FLOW/HIGHWAY FUND APPROPRIATIONS

Sec. 9. G.S. 143-28.1 is amended as follows:
(a) At the end of subdivision (3), add the following sentence:

"For the purposes of awarding contracts involving Federal-Aid, any amount due from the Federal Government and the Highway Bond Fund as a result of unreimbursed expenditures may be considered as cash for the purposes of this provision."

(b) In subdivision (4), delete last sentence beginning with "After making".

Sec. 9.1. The General Assembly authorizes and certifies anticipated revenues of the Highway Fund as follows:

For Fiscal Year 1983-84 $520,400,000
For Fiscal Year 1984-85 $513,100,000

—APPROPRIATION TO MUNICIPALITIES/BUTNER INCLUDED

Sec. 9.2. G.S. 136-41.1 is amended by adding the following new subsection:

"(c) Notwithstanding the provisions of subsections (a) and (b) of this section and of G.S. 136-41.2, the unincorporated area known as Butner qualifies in all respects for allocation of funds under this section and certification of the population and street mileage of Butner by the North Carolina Department of Human Resources is acceptable. Funds allocated to the area for this purpose shall be administered by the Department of Human Resources."

PART IV.—GENERAL PROVISIONS

—SPECIAL FUNDS, FEDERAL FUNDS AND DEPARTMENTAL RECEIPTS/AUTHORIZATION FOR EXPENDITURES

Sec. 10. There is appropriated out of the cash balances, federal receipts, and departmental receipts available to each department, sufficient amounts to carry on authorized activities included under each department's operations. All these cash balances, federal receipts and departmental receipts shall be expended and reported in accordance with provisions of the Executive Budget Act, except as otherwise provided by statute.

State departments, agencies, institutions, boards or commissions may make application for, receive or disburse any form of non-State aid. They shall deposit all non-State monies received with the State Treasurer, unless otherwise provided by State law, and shall expend these funds in accordance with the terms and conditions of the fund award which are not contrary to the laws of North Carolina.

—INSURANCE AND FIDELITY BONDS

Sec. 11. All insurance and all official fidelity and surety bonds authorized for the several departments, institutions, and agencies shall be effected and placed by the Insurance Department, and the cost of placement shall be paid by the affected department, institution, or agency with the approval of the Insurance Commissioner.

—NORTH CAROLINA SYMPHONY/GRANT-IN-AID FUNDS

Sec. 12. As a condition of accepting State grant-in-aid funds, the North Carolina Symphony shall operate within a balanced budget.

—SALARY ADJUSTMENT APPROPRIATIONS/AUTHORIZED TRANSFERS

Sec. 13. The Director of the Budget may transfer to General Fund budget codes from the General Fund salary adjustment appropriation, and to Highway Fund budget codes from the Highway Fund salary adjustment appropriation, amounts required to support approved salary adjustments made necessary by difficulties in recruiting and holding qualified employees in State.
government. The funds shall be transferred only when the use of salary reserve funds in individual operating budgets is not feasible.

—LIMIT COUNTY PARTICIPATION RATE INCREASE AFTER LOSS OF FEDERAL FUNDS

Sec. 13.1. If the federal funding of joint State/county programs is reduced or eliminated, no State agency shall, without direction from the General Assembly, (i) increase the required county financial participation rate in any State/county program to offset the reduced or eliminated federal funding to an amount which is greater than the current county proportion of the nonfederal share of those programs, or (ii) direct the use of county matching funds no longer necessary for the funding of joint State/county programs.

—BUDGETING OF PILOT PROGRAMS

Sec. 13.2. Any program designated by the General Assembly as experimental, model, or pilot shall not become a part of a department’s continuation budget request for the ensuing biennium, but shall be considered as an expansion item until a succeeding General Assembly reapproves it and directs that it be treated as a continuation budget item.

Any new program and any modification of an existing program funded in whole or in part through a special appropriations bill shall be designated as an experimental, model, or pilot program.

—LOCATION OF FISCAL RESEARCH DIVISION OFFICES

Sec. 13.3. G.S. 120-36.5 is amended by deleting the words “in the State Legislative Building”.

—TRAVEL EXPENDITURES/REPORTING FORMAT

Sec. 13.4. The Office of State Budget and Management shall require State departments, agencies and institutions to report travel expenditures by the following line items:

(1) In-state travel — transportation costs;
(2) In-state travel — subsistence costs;
(3) Out-of-state travel — transportation costs; and
(4) Out-of-state travel — subsistence costs.

The State Auditor’s Office shall include this breakdown in their Departmental Accounting System.

—STUDY OF STATE CREDIT CARDS/OFFICE OF STATE BUDGET AND MANAGEMENT

Sec. 13.5. The Office of State Budget and Management shall determine the number of individuals who are issued credit cards in the name of the State, the names of these individuals and the number of credit cards each has. The Office of State Budget and Management shall also determine the number of telephones installed in State vehicles, to whom they are assigned, and justification for their use.

An interim report shall be made to the General Assembly by September 15, 1981. A final report including proposed policies concerning the issuance and use of credit cards in the name of the State and the installation of telephones in State-owned motor vehicles shall be presented to the General Assembly by May 1, 1982.

—SHIFT PREMIUM PAY

Sec. 13.6. Shift premium pay shall be paid to all State employees in nonmedically related positions through salary grade 69 and to all State employees in medically related positions through salary grade 73, subject to the
provisions of this section. Shift premium pay for employees in medically related positions shall be limited to ten percent (10%) of salary or one dollar ($1.00) per hour, whichever is greater. The State Personnel Commission shall set the higher shift premium pay for employees in medically related positions only after finding that the higher pay is necessary to meet existing competition from private employers.

The State Personnel Commission shall not adopt a shift premium pay schedule higher than those stated in this section unless the higher schedule is first approved by the General Assembly and funds are appropriated to implement the higher pay. The Commission may, however, request authorization to pay shift premium pay to employees in grades above those stated in this section when the Commission determines that there is a critical shortage of employees in a position because of competition from private employers who pay shift premium pay for that type work. Such a request shall be made to the General Assembly if it is in session; otherwise, the request shall be made to the Advisory Budget Commission.

The State Personnel Commission is directed to strictly enforce its regulation requiring that employees who receive shift premium pay be regularly assigned to night or shift work. In enforcing the regulation the Commission shall strictly construe "regularly" so that shift premium pay shall not be paid to employees temporarily placed on a shift receiving such pay.

—STATE EMPLOYEE COMPENSATION INCREASE GIVEN TOP PRIORITY

Sec. 13.7. It is the intent of the 1981 General Assembly that top priority be given to increasing compensation for State employees when it returns in the Fall of 1981 from its recess. If funds are available for expansion and supplemental requests, first priority shall be given to a State employee compensation package.

—CONTINUATION BUDGET REDUCTIONS/DEPARTMENT OF LABOR

Sec. 13.8. The funds appropriated in Section 2 of this act to the Department of Labor reflect a reduction in the 1981-83 continuation budgets recommended to the General Assembly by the Governor and Advisory Budget Commission. The Department of Labor may make that reduction as it deems appropriate; however, at least seventy percent (70%) of the reduction shall be made in salaries and wages. The Department of Labor shall not increase any inspection fees or any other charges to the public to accommodate the foregoing reductions without prior approval of the Governor and Advisory Budget Commission.

—EXTRADITION OF PROBATION AND PAROLE VIOLATORS

Sec. 13.9. G.S. 15A-744 is amended by rewriting the first sentence to read:

"Subject to the requirements and restrictions set forth in this section, if the crime is a felony or if a person convicted in this State of a misdemeanor has broken the terms of his probation or parole, reimbursements for expenses shall be paid out of the State treasury on the certificate of the Governor."

—GENERAL STATUTES CODE RECODIFICATION COMMISSION ABOLISHED
Sec. 13.10. Article 3 of Chapter 164 of the General Statutes, and G.S. 114.4.2E are repealed.

—TOURISM PROMOTION MATCHING FUNDS

Sec. 13.11. There is appropriated to the Department of Commerce in Section 2 of this act the sum of one hundred fifty thousand dollars ($150,000) for fiscal year 1981-82 as a grant to the Western North Carolina Associated Communities, Inc., for the purpose of promoting North Carolina accommodations and tourist attractions to visitors to the 1982 Knoxville World's Fair. Western North Carolina Associated Communities, Inc., must match on a dollar-for-dollar basis from private sources the funds made available under this act. Western North Carolina Associated Communities, Inc., may apply to the Department of Commerce, from time to time, for the funds appropriated under this act, as it raises the matching funds.

—COMMITTEE ON EMPLOYEE HOSPITAL AND MEDICAL BENEFITS CREATED

Sec. 13.12. G.S. 135-33(a) is rewritten to read:

“(a) The Committee on Employee Hospital and Medical Benefits shall formulate and establish for teachers and State employees, including all employees of the General Assembly other than participants in the Legislative Intern Program and pages, a program of hospital and medical care benefits to the extent that funds for those benefits are specifically appropriated by the General Assembly. The program may be provided by the Committee either directly or through the purchase of contracts, or by a combination of those methods, as in its discretion the Committee considers wise and expedient. In awarding any contract pursuant to this section, the Committee shall consider the total or overall cost of complete family coverage by teachers and State employees. Once formulated and established by the Committee, the program shall be administered by the Board of Trustees of the Retirement System, subject to the direction of the Committee.”

Sec. 13.13. G.S. 135-33(c) is amended in the first line of that subsection by deleting the words “Board of Trustees” and substituting the words “Committee on Employee Hospital and Medical Benefits”.

Sec. 13.14. G.S. 135-33.1 is amended by deleting the first sentence of that section and substituting the following:

“The Committee on Employee Hospital and Medical Benefits shall formulate and establish for members of the General Assembly, their spouses and dependents, a program of hospital and medical care benefits similar to the program provided for teachers and State employees which shall be paid for solely by contributions of the beneficiaries of the program. Once formulated and established by the Committee, the program shall be administered by the Board of Trustees of the Retirement System, subject to the direction of the Committee.”

Sec. 13.15. G.S. 135-33.1 is further amended by deleting the words “board of trustees” in the last sentence of that section and substituting the words “Committee on Employee Hospital and Medical Benefits”.

Sec. 13.16. G.S. 135-34 is rewritten to read:

“The Committee on Employee Hospital and Medical Benefits shall formulate and establish for teachers and State employees with one or more years of service, including all employees of the General Assembly other than participants in the Legislative Intern Program and pages, a program of
disability salary continuation benefits to the extent that funds for those benefits are specifically appropriated by the General Assembly. The program may be provided by the Committee either directly or through the purchase of contracts, or by a combination of those methods, as in its discretion the Committee considers wise and expedient. Once formulated and established by the Committee, the program shall be administered by the Board of Trustees of the Retirement System subject to the direction of the Committee. Benefits provided under this program of disability salary continuation shall not be reduced in any manner as a result of Social Security payments received with respect to any dependent or dependents of the disabled employee or as a result of compensation received from the Veterans Administration of the United States for disease or disability incurred while a member of the armed forces of the United States."

Sec. 13.17. G.S. 135-35 is repealed.

Sec. 13.18. Article 3 of Chapter 135 of the General Statutes is further amended by adding the following new section:

"§ 135-37. Committee on Employee Hospital and Medical Benefits.—(a) The Committee on Employee Hospital and Medical Benefits shall consist of 12 members as follows:

(1) The President Pro Tempore of the Senate;
(2) The Chairman of the Senate Committee on Ways and Means;
(3) The Chairman of the Senate Committee on Appropriations;
(4) The Chairman of the Senate Committee on Base Budget;
(5) The Chairman of the Senate Committee on Finance;
(6) One other member of the Senate appointed by the President of the Senate;
(7) The Speaker Pro Tempore of the House of Representatives;
(8) The Chairman of the House Committee on Appropriations Base Budget;
(9) The Chairman of the House Committee on Appropriations Expansion Budget;
(10) The Chairman of the House Committee on Finance; and
(11) Two other members of the House appointed by the Speaker.

(b) The members of the Committee who are members because of the offices they hold shall remain on the Committee for the duration of their terms in those offices. The President of the Senate and Speaker of the House shall appoint the other members of the Committee for two-year terms beginning on July 1 of odd-numbered years.

(c) The Committee shall formulate and establish programs for hospital, medical care and disability salary continuation benefits as provided in G.S. 135-33, 135-33.1 and 135-34. In formulating and establishing those programs the Committee may consult with the Board of Trustees of the Retirement System. The Board of Trustees and the director, staff, and advisors of the Retirement System shall provide the Committee with any information or assistance requested by the Committee in performing its duties under this Article.

(d) The time members spend on Committee business shall be considered official legislative business for purposes of G.S. 120-3."

Sec. 13.19. The programs for hospital, medical care and disability salary continuation benefits formulated, established, and administered by the Board of Trustees of the Retirement System before the effective date of this act are
adopted as the programs of the Committee on Employee Hospital and Medical Benefits and shall continue in effect in the same manner after the effective date of this act except as changed by the Committee pursuant to its authority under Sections 13.12 through 13.19 of this act.

PART V.—SPECIAL PROVISIONS/HUMAN RESOURCES
— MEDICAID


(1) Medicaid Reimbursement. Appropriations in Section 2 of this act for services provided in accordance with Title XIX of the Social Security Act (Medicaid) are for both the categorically needy and the medically needy. Funds appropriated for such services are to be expended in accordance with the following schedule of services and payment basis:

<table>
<thead>
<tr>
<th>Services</th>
<th>Payment Basis</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hospital - Inpatient</td>
<td>Allowable costs, but administrative days for any period of hospitalization shall be limited to a maximum of three days. 90 percent of allowable costs.</td>
</tr>
<tr>
<td>Hospital - Outpatient</td>
<td>Allowable costs. As prescribed under the State Plan for Reimbursing Long Term Care Facilities. Effective October 1, 1981, skilled nursing facility participation in the Medicare program is a condition of participation in the North Carolina Medicaid skilled nursing facility program. Allowable costs.</td>
</tr>
<tr>
<td>Mental and Specialty Hospitals</td>
<td></td>
</tr>
<tr>
<td>Skilled Nursing Facilities and Intermediate Care Facilities</td>
<td></td>
</tr>
<tr>
<td>Intermediate Care Facilities for the Mentally Retarded</td>
<td></td>
</tr>
</tbody>
</table>
Drugs

Fall 1981 Session of the General Assembly unless disapproved by the General Assembly.

Drug cost as allowed by federal regulations plus $2.80 professional service fee per month excluding refills for same drug or generic equivalent during the same month. (Payments for drugs are subject to the provisions of subdivision (8) of this section.)

Physicians

90 percent of allowable usual and customary charges.

Chiropractors

90 percent of allowable usual and customary charges.

Dental

90 percent of allowable usual and customary charges. (Payments for dental services are subject to the provisions of subdivision (7) of this section.)

Home Health

Allowable costs.

Optical Services

90 percent of allowable usual and customary charges.

Medicare Buy-In

Social Security Administration premium.

Clinic Services

Reasonable customary charges as determined by the State under federal regulations.

Ambulance Services

100 percent of allowable, reasonable, usual and customary charges.

EPSDT Screens

Established rate approved by the State.

Hearing Aids

Actual cost plus a dispensing fee.

Rural Health Clinic Services

Provider based - reasonable cost;
Non-provider based - single cost reimbursement rate per clinic visit.
Family Planning

Negotiated rate for local health departments and other providers - see specific services, i.e., hospitals, physicians, etc.

Independent Laboratory and X-Ray Services

90 percent of allowable usual and customary charges.

Optical Supplies

100 percent of reasonable wholesale cost of materials.

Medicare Crossover Claims

Total payments for services from Medicare and Medicaid rendered to Medicare patients, who are also eligible for Medicaid shall not exceed the Medicaid payment for the same services.

Notwithstanding the schedule for services and payment basis in this section, increases in Medicaid rates for physicians, dentists, chiropractors, optometrists, and podiatrists shall not exceed seven percent (7%) in each year of the biennium.

Payment basis terms of allowable, usual, reasonable, and customary are definitive terms prescribed by federal regulations governing the Medicaid program. Any changes in services or basis of payment in the Medicaid program must be approved by the Director of the Budget and the Advisory Budget Commission.

(2) Allocation of Nonfederal Cost of Medicaid. The State shall pay eighty-five percent (85%) and the counties shall pay fifteen percent (15%) of the nonfederal costs of all applicable services listed in this section, except that the State shall pay sixty-five percent (65%) and the counties shall pay thirty-five percent (35%) of the nonfederal costs of those Skilled Nursing Facilities and Intermediate Care Facilities services which are not owned by the State.

(3) Co-payment for Medicaid Services. Medicaid recipients shall pay the maximum co-payment as allowed by federal regulations.

No co-payment is required for EPSDT-related services, family planning services, State hospital services, or services subject to Medicare Part A or Part B coverage.

Co-payment for inpatient hospital services is limited to the first 30 days of each stay.

(4) Prepaid Health Care for Medicaid Recipients. The Department of Human Resources, Division of Medical Assistance is authorized, subject to approval of a change in the State Medicaid Plan by the Director of the Budget and the Advisory Budget Commission, to purchase health care services on a prepaid basis.

(5) Medicaid Income Eligibility Standards. Maximum net family annual income eligibility standards for Medicaid shall be as follows:

<table>
<thead>
<tr>
<th>Categorically Needy</th>
<th>Medically</th>
</tr>
</thead>
</table>

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### Table: Aid and Budget Limitations

<table>
<thead>
<tr>
<th>Family</th>
<th>AFDC*</th>
<th>AA,AB,AD*</th>
<th>Needy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Size</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>$1,524</td>
<td>$1,700</td>
<td>$2,100</td>
</tr>
<tr>
<td>2</td>
<td>2,004</td>
<td>2,200</td>
<td>2,700</td>
</tr>
<tr>
<td>3</td>
<td>2,304</td>
<td>2,500</td>
<td>3,100</td>
</tr>
<tr>
<td>4</td>
<td>2,520</td>
<td>2,800</td>
<td>3,400</td>
</tr>
<tr>
<td>5</td>
<td>2,760</td>
<td>3,000</td>
<td>3,700</td>
</tr>
<tr>
<td>6</td>
<td>2,976</td>
<td>3,200</td>
<td>4,000</td>
</tr>
<tr>
<td>7</td>
<td>3,192</td>
<td>3,400</td>
<td>4,300</td>
</tr>
<tr>
<td>8</td>
<td>3,324</td>
<td>3,600</td>
<td>4,500</td>
</tr>
</tbody>
</table>

* Aid to Families with Dependent Children (AFDC); Aid to the Aged (AA); Aid to the Blind (AB); and Aid to the Disabled (AD).

These standards may be changed with the approval of the Director of the Budget and the Advisory Budget Commission.

(6) Spouse Responsibility.-Rules governing the income and financial resources of the spouse of a person who is admitted as a long-term care patient in a certified public or private intermediate care or skilled nursing facility shall be consistent with federal regulations and with the June 25, 1981, decision of the U. S. Supreme Court in the Grey Panthers vs. Secretary, Department of Health and Human Services.

(7) Prior Approval for Dental Services.-Funds for dental services shall be disbursed only with prior approval by the Department of Human Resources, Division of Medical Assistance as required by this paragraph. No prior approval shall be required for emergency services or routine services. Routine services are defined as examinations, X rays, prophylaxis, nonsurgical tooth extractions, amalgam fillings, and fluoride treatments. Prior approval shall be required for all other services and for routine services performed more than two times during a consecutive 12-month period. The Department of Human Resources shall establish rules and regulations, as provided by the Administrative Procedures Act, for obtaining prior approval as required by this section.

(8) Dispensing of Generic Drugs.-Notwithstanding Part 1A of Article 4 of Chapter 90 of the General Statutes, under the Medicaid Assistance program (Title XIX of the Social Security Act) a prescription order for a drug designated by a trade or brand name shall be considered to be an order for the drug by its established or generic name, except when the prescriber personally indicates, either orally or in his own handwriting on the prescription order, “dispense as written” or words of similar meaning.

As used in this paragraph “brand name” means the proprietary name the manufacturer places upon a drug product or on its container, label or wrapping at the time of packaging; and “established name” shall have the same meaning as assigned that term by the Federal Food, Drug and Cosmetic Act as amended, Title 21 U.S.C. 301 et seq.

(9) Actions on Federal Reductions in Medicaid.-Prior to the convening of the Fall 1981 Session of the General Assembly, the Department of Human Resources, Division of Medical Assistance shall explore any and all cost containment measures, including but not limited to those considered by the budget committees, to meet anticipated reductions in federal funding of the State’s Medicaid program. These measures may include limitations of services, changes in reimbursement rates and methodologies, and changes in eligibility.
CHAPTER 859  Session Laws—1981

Changes in Medicaid may be made by the Governor and the Advisory Budget Commission prior to the Fall 1981 Session of the General Assembly if the federal funding reductions require immediate action.

—COUNTY MEDICAID RELIEF FUNDS

Sec. 15. Of the funds appropriated to the Department of Human Resources, Division of Medical Assistance in Section 2 of this act for fiscal year 1981-82, four million six hundred thirty-nine thousand dollars ($4,639,000) shall be used to relieve those counties of the additional costs the counties incurred in fiscal year 1980-81 due to the difference between the State-county participation rates for domiciliary care facilities and non-State owned skilled nursing and intermediate care facilities in effect in fiscal year 1980-81 and those in effect in fiscal year 1977-78 and that they would not have incurred had these sections not been enacted. These funds shall be distributed for actual cost incurred or on a pro rata basis in the proportion that an individual county's additional cost bears to the total additional cost to those counties which incurred additional costs in 1980-81.

—ENCOURAGE COUNTIES TO MEET THEIR LOCAL SOCIAL SERVICES BUDGET OBLIGATIONS

Sec. 16. The Director of the Budget is authorized to withhold from any county that does not pay its full share of public assistance costs to the State and has not arranged for payment pursuant to G.S. 108-54.1 or G.S. 108A-143, any State monies appropriated from the General Fund for public assistance and related administrative costs, or to direct the Secretary of Revenue and State Treasurer to withhold any tax owed to a county under Article 7 of Chapter 105 of the General Statutes, G.S. 105-113.86, Article 39 of Chapter 105 of the General Statutes or Chapter 1096 of the Session Laws of 1967. The Director of the Budget shall notify the chairman of the board of county commissioners of the proposed action prior to the withholding of funds.

—NONMEDICAID MEDICAL SERVICES/STATE PROGRAMS

Sec. 17. Providers of medical services under the various State programs other than Medicaid offering medical care to citizens of the State shall be reimbursed at rates no more than those under the Medicaid program.

Maximum net family annual income eligibility standards for services in these programs except Migrant Health and School Health shall be as follows:

<table>
<thead>
<tr>
<th>Family Size</th>
<th>Kidney</th>
<th>Medical Eye Care</th>
<th>Rehabilitation</th>
<th>All Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>6,400</td>
<td>1,800</td>
<td>5,053</td>
<td>4,200</td>
</tr>
<tr>
<td>2</td>
<td>8,000</td>
<td>2,520</td>
<td>6,608</td>
<td>5,300</td>
</tr>
<tr>
<td>3</td>
<td>9,600</td>
<td>3,180</td>
<td>8,161</td>
<td>6,400</td>
</tr>
<tr>
<td>4</td>
<td>11,000</td>
<td>3,600</td>
<td>9,718</td>
<td>7,500</td>
</tr>
<tr>
<td>5</td>
<td>12,000</td>
<td>3,960</td>
<td>11,276</td>
<td>7,900</td>
</tr>
<tr>
<td>6</td>
<td>12,800</td>
<td>4,320</td>
<td>12,828</td>
<td>8,300</td>
</tr>
<tr>
<td>7</td>
<td>13,600</td>
<td>4,680</td>
<td>13,116</td>
<td>8,800</td>
</tr>
<tr>
<td>8</td>
<td>14,400</td>
<td>5,040</td>
<td>13,411</td>
<td>9,300</td>
</tr>
</tbody>
</table>

These standards may be changed with the approval of the Director of the Budget and the Advisory Budget Commission.

—MIXED BEVERAGE TAX FOR AREA MENTAL HEALTH PROGRAMS

Sec. 19. Funds received by the Department of Human Resources from the tax levied on mixed beverages under G.S. 18A-15(3)c.3 or G.S. 18B-804(b)(8)
shall be expended by the Department of Human Resources for alcohol programs in area mental health centers. These funds shall be matched by local funds in accordance with the State/local ratio established by the current area mental health matching formula. These funds shall be allocated to the area mental health programs on a per capita basis as determined by the Office of State Budget and Management’s most recent estimates of county populations.

—DIRECT PATIENT-CARE BENEFITS/NO CHANGE TO INDIRECT BENEFITS

Sec. 21. In order that an adequate level of direct patient care in the Department of Human Resources health care institutions may be maintained, positions recommended for direct patient care in the budget shall not be reclassified and funds shall not be reallocated to nondirect patient-care activities.

—OLDER AMERICANS FUNDS/MATCH OTHER PROGRAMS

Sec. 22. The Department of Human Resources, Division of Aging, is authorized to use funds appropriated for the 1981-83 biennium as State matching funds for Title VII of The Older Americans Act as State matching funds for other federal programs.

—AGED AND FAMILY CARE/COUNTY AND STATE SHARES OF COSTS

Sec. 23. The State shall pay seventy percent (70%) and the counties shall pay thirty percent (30%) of the authorized rates for domiciliary care in homes for the aged and for family care homes.

—DOMICILIARY CARE FACILITIES

Sec. 23.1. The Department of Human Resources, Division of Social Services shall increase the rates allowed domiciliary care facilities by thirty dollars ($30.00) per month, effective July 1, 1981. These rates shall increase by an additional thirty dollars ($30.00) per month, effective January 1, 1982.

Notwithstanding the participation rates in Section 23 of this act, counties shall not be required to pay any part of this rate increase for the 1981-82 fiscal year.

Sec. 23.2. (a) Chapter 108 of the General Statutes is amended by adding a new section to read:

"§ 108-77.1. Domiciliary care facilities; reporting requirements.—The Department of Human Resources, Division of Social Services, by January 1, 1982, shall develop a cost and revenue reporting form for use by all domiciliary care facilities. This form shall be based on the uniform chart of accounts required in G.S. 108-77.2. All facilities that receive funds under the State-County Special Assistance for Adults Program shall report total costs and revenues to the Department of Human Resources by February 1, 1984, for the 1983 calendar year and annually thereafter. Facilities licensed for five beds or less and combination facilities providing either intermediate or skilled care in addition to domiciliary care shall not be required to comply with the reporting requirements in this section. All facilities shall be required to permit access to any requested financial records by representatives of the Department of Human Resources for audit purposes effective July 1, 1981.

The Department may take either or both of the following actions to enforce compliance by a facility with this section, or to punish noncompliance:

(1) Seek a court order to enforce compliance;
(2) Suspend or revoke the facility’s license, subject to the provisions of Chapter 150A, the Administrative Procedure Act.”

(b) Effective October 1, 1981, the statute added by subsection (a) of this section shall be recodified in an appropriate place in Chapter 131C.

Sec. 23.3. (a) Chapter 108 of the General Statutes is amended by adding a new section to read:

“§108-77.2. Domiciliary care facilities; uniform chart of accounts.—The Department of Human Resources, Division of Social Services, by January 1, 1982, shall develop a uniform chart of accounts for use by all domiciliary care facilities funded totally or in part through the State-County Special Assistance for Adults Program. The Division shall consult with representatives from the domiciliary care industry in developing the new accounting system. The division shall require that domiciliary care facilities covered by this section to implement this chart of accounts by January 1, 1983. Facilities licensed for five beds or less, and combination facilities providing either intermediate or skilled care in addition to domiciliary care, shall not be required to comply with this section.

The Department may take either or both of the following actions to enforce compliance by a facility with this section or to punish noncompliance:

(1) Seek a court order to enforce compliance;

(2) Suspend or revoke the facility’s license, subject to the provisions of Chapter 150A, the Administrative Procedure Act.”

(b) Effective October 1, 1981, the statute added by subsection (a) of this section shall be recodified in an appropriate place in Chapter 131C of the General Statutes.

—SALE OF REAL PROPERTY, JOHN UMSSTEAD HOSPITAL

Sec. 23.4. A new sentence is added to the end of G.S. 146-30 to read as follows:

“Provided further, the net proceeds derived from the sale of land at John Umstead Hospital on and after July 1, 1980, shall be deposited with the State Treasurer in a capital improvement account to the credit of the Hospital to bring those streets in the unincorporated area known as Butner not in the State highway system up to standards adequate for acceptance on the system, according to a plan adopted by the Department of Administration, Office of State Budget and Management and the Advisory Budget Commission, with the approval of the Board of County Commissioners of Granville County.”

—TRANSFER OF FUNDS FOR CHILDREN WITH SPECIAL NEEDS

Sec. 23.5. Of the funds appropriated in Section 2 of this act to the Department of Public Education for the education of children with special needs, the sum of three hundred four thousand dollars ($304,000) in fiscal year 1981-82 and three hundred twenty thousand dollars ($320,000) in fiscal year 1982-83 shall be transferred by the Director of the Budget to the Department of Human Resources to enable the Department of Human Resources to continue teaching positions previously supported through allotments from the State Board of Education.

PART VI.—DEPARTMENT OF CORRECTION - SPECIAL PROVISION / CORRECTION

—REIMBURSEMENT TO LOCAL CONFINEMENT FACILITIES
Sec. 25. G.S. 148-32.1(a) is rewritten to read as follows:

"§148-32.1. Local confinement, costs, alternate facilities, parole, work release.—(a) The Department of Correction shall pay each local confinement facility a standard sum set by the General Assembly in its appropriation acts at a per day, per inmate rate, for the cost of providing food, clothing, personal items, supervision and necessary ordinary medical services to those male inmates committed to the custody of the local confinement facility to serve sentences of 30 to 180 days. This reimbursement shall not include any period of detention prior to actual commitment by the sentencing court. The Department shall also pay to the local confinement facility extraordinary medical expenses incurred for the inmates, defined as follows:

(1) Medical expenses incurred as a result of providing health care to an inmate as an inpatient (hospitalized);

(2) Other medical expenses when the total cost exceeds thirty-five dollars ($35.00) per occurrence or illness as a result of providing health care to an inmate as an outpatient (nonhospitalized); and

(3) Cost of replacement of eyeglasses and dental prosthetic devices if those eyeglasses or devices are broken while the inmate is incarcerated, provided the inmate was using the eyeglasses or devices at the time of his commitment and then only if prior written consent of the Department is obtained by the local facility.

PART VII.—DEPARTMENT OF PUBLIC EDUCATION - SPECIAL PROVISIONS/PUBLIC SCHOOLS

—ONE-STEP SALARY INCREASE/SOME SCHOOL PERSONNEL

Sec. 28. Funds are appropriated in Section 2 of this act to the Department of Public Education to provide a one-step salary increase on the salary schedule, effective on January 1 of each year of the biennium, for State-paid teacher aides, clerical assistants, and custodians and maintenance supervisors in the public schools. However, for 10-month employees, this increase shall be effective at the beginning of the sixth month of employment. If the funds appropriated are inadequate to provide a full one-step salary increase, an equal percentage of each one-step increase shall be funded. The State Board of Education shall adopt rules and regulations for the use of these funds as provided in this section.

—TEXTBOOK APPROPRIATIONS/NOT REVERT

Sec. 29. Funds appropriated in this act to the Department of Public Education for the purchase of elementary basic textbooks shall be permanent appropriations, and unexpended portions of these appropriations shall not revert to the General Fund at the end of the biennium.

—SCHOOL EMPLOYEE PERSONNEL COMMISSION RECOMMENDATIONS

Sec. 29.1. G.S. 115C-329(b) as it appears in Chapter 423 of the 1981 Session Laws is amended by adding a period after the language "recommendations from the Commission" and by rewriting the portion after the period to read:

"The State Board of Education is not empowered to implement recommendations of the Commission without an appropriation from the General Assembly for this express purpose."

—PURCHASE OF BUSES IN LIEU OF CONTRACT TRANSPORTATION
Sec. 29.2. Section 6(a) of Chapter 1212 of the 1979 Session Laws is amended by adding after the first sentence the following new language:

“Funds appropriated to the Department of Public Education for the 1981-83 biennium for contract transportation to serve exceptional children, may be used by local boards of education for the purchases of buses and minibuses as well as for the purposes authorized in the budget.”

Sec. 29.3. The first sentence of Section 6(b) of Chapter 1212 of the 1979 Session Laws is amended by deleting the word “criteria”, and inserting in lieu thereof the words “specific uniform criteria”, and is further amended by adding immediately before the period the words “, provided that in calculating the cost saving, two-twelfths of the purchase price of the bus or minibus shall be included in the calculation”.

Sec. 29.4. Section 6(c) of Chapter 1212 of the 1979 Session Laws is rewritten to read:

“(c) This section is intended as an interim solution.”

Sec. 29.5. Section 6(d) of Chapter 1212 of the 1979 Session Laws is rewritten to read:

“(d) Any vehicles purchased under the authority of this section shall be subject to G.S. 115-188 and G.S. 115C-249, except for subsection (h) of those sections.”

Sec. 29.6. Section 6(f) of Chapter 1212 of the 1979 Session Laws is amended in the last paragraph by adding “and G.S. 115C-240” after “G.S. 115-181”.

RESPONSIBILITY FOR EDUCATION OF CHILDREN WITH SPECIAL NEEDS

Sec. 29.7. (1) A new section is added to Part 10 of Article 9 of Chapter 115C of the General Statutes as it appears in Chapter 423 of the 1981 Session Laws to read:

“§ 115C-140.1. Cost of education of children in group homes, foster homes, etc.—(a) Notwithstanding the provisions of any other statute and without regard for the place of domicile of a parent or guardian, the cost of a free appropriate public education for a child with special needs who is placed in or assigned to a group home, foster home or other similar facility, pursuant to State and federal law, shall be borne by the local board of education in which the group home, foster home or other similar facility is located. Nothing in this section obligates any local board of education to bear any cost for the care and maintenance of a child with special needs in a group home, foster home or other similar facility.

(b) The State Board of Education shall use State and federal funds appropriated for children with special needs to establish a reserve fund to reimburse local boards of education for the education costs of children assigned to group homes or other facilities as provided in subsection (a) of this section.”

(2) The current funding ratio of additional per pupil allocation to local school administrative units for children with special needs shall be continued in 1981-83 subject to the appropriation of adequate State and federal funds specifically for the program for children with special needs. The State Board of Education shall adjust the additional per pupil allocation formula during the 1981-82 and 1982-83 school years to reflect the amount of funds available for the program for children with special needs.
—FUNDS FOR MEMBERS OF THE CLASS IDENTIFIED IN WILLIE M.,
et. al. vs. HUNT, et. al.

Sec. 29.8. (a) Legislative findings.—The General Assembly finds:

(1) That there is a need in North Carolina to provide appropriate
treatment and education programs to children under the age of 18 who suffer
from emotional, mental, or neurological handicaps accompanied by violent or
assaultive behavior;

(2) That children with these behaviors have been identified as a class in
the case of Willie M., et. al. vs. Hunt, et. al.;

(3) That these children have a need for a variety of services that may
include but are not limited to residential treatment programs, educational
programs, and independent living arrangements;

(4) That the plans of the Department of Human Resources and the
Department of Public Instruction for children in the Willie M. class indicate
that not all counties in the State have the same readiness to proceed with
providing the full range of services needed by these children;

(5) That an attempt to provide immediately the full range of services
needed by these children would result in ill-conceived, poorly executed
programs at great public expense;

(6) That, because of multiple practical difficulties which will undoubtedly
be encountered before services can be instituted statewide, it is necessary for
the General Assembly to establish a schedule of priorities for allocating funds to
local area mental health programs and local educational agencies.

(b) Funds for Division of Mental Health, Mental Retardation, and
Substance Abuse.—Funds in the amount of one million five hundred eighty-six
thousand seven hundred forty-two dollars ($1,586,742) are appropriated in
Section 2 of this act for each year of the biennium to the Department of Human
Resources, Division of Mental Health, Mental Retardation, and Substance
Abuse for the purpose of providing appropriate treatment for members of the
class identified in Willie M., et. al. vs. Hunt, et. al. These funds shall be
expended through area mental health, mental retardation, and substance abuse
programs in accordance with the schedule of priorities in the Department of
Human Resources, the Division of Mental Health, Mental Retardation and
Substance Abuse, Plan III submitted by the department to the General
Assembly in June, 1981.

(c) Funds for Division of Youth Services.—Funds in the amount of one
hundred thirty-nine thousand twenty-eight dollars ($139,028) are appropriated in
Section 2 of this act for each year of the biennium to the Department of
Human Resources, Division of Youth Services, to serve members of the class
identified in Willie M., et. al. vs. Hunt, et. al. who are committed to the
Division of Youth Services. These funds shall be expended by the Division of
Youth Services for the developmental disabilities program at C. A. Dillon
School.

(d) Priority for Residential Programs.—Children who are members of the
Willie M. class and are in counties that do not receive funds in the 1981-83
biennium and that cannot currently provide the full range of services needed by
these children shall receive priority in appropriate programs operated by the
Department of Human Resources. The Department of Human Resources shall
promulgate rules and regulations to implement this subsection by October 1,
1981.

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(e) Limitation on expenditure of funds.—The funds referred to in subsections (b) and (c) may not be used to serve children not in the Willie M. class if any class member within the zone described in the Department of Human Resources, Division of Mental Health, Mental Retardation and Substance Abuse, Plan III remains unserved. No funds shall be expended for any program that does not serve members of the class.

(f) Funds for Department of Public Education.—Funds in the amount of two hundred thirty-nine thousand three hundred sixty dollars ($239,360) are appropriated in Section 2 of this act for each year of the biennium to the Department of Public Education to establish a supplemental reserve fund to serve only members of the class identified in Willie M., et. al. vs. Hunt, et. al. These funds shall be allocated by the State Board of Education to those local education agencies that coincide with those area mental health, mental retardation, and substance abuse centers that receive funds under the Department of Human Resources, Division of Mental Health, Mental Retardation and Substance Abuse, Plan III. These funds shall be allocated by the State Board of Education to the local education agencies to serve those class members who were not included in the regular average daily membership and the census of children with special needs, and to provide the additional program costs which exceed the per pupil allocation from the State Public School Fund and other State and federal funds for children with special needs.

(g) Use of unexpended funds.—The Director of the Budget may use any unexpended funds allocated in this section to fund additional treatment and education programs for class members in accordance with the schedule of priorities found in the Department of Human Resources, Division of Mental Health, Mental Retardation and Substance Abuse, Plan I.

(h) Reporting requirements.—The Department of Human Resources and the Department of Public Education shall submit a joint report to the General Assembly on the progress achieved in serving members of the Willie M. class. The report shall include, but not be limited to the following unduplicated data for each county: (i) the number of children nominated for the Willie M. class; (ii) the number of children actually identified as members of the class in each county; (iii) the number of children served as members of the class in each county; (iv) the number of children that remains unserved; (v) the types and location of treatment and education services provided to class members; (vi) the cost of services, by type, to members of the class; (vii) information on the impact of treatment and education services on members of the class; and (viii) the readiness of other areas of the State to proceed with providing services. The Departments shall report to the 1982 Session of the 1981 General Assembly and, by October 1, 1982, to the General Assembly and the Governor.

—CLASS SIZE MAXIMA

Sec. 29.9. First priority in the use of the funds appropriated in Section 2 of this act to the Department of Public Education, Fiscal Administration and Support, shall be to meet the statutory class size maxima of 26 pupils in kindergarten-grade three, 33 pupils in grades 4-8, and 35 pupils in grades 9-12. The teacher positions required to meet class size requirements shall be used only for instructing pupils.

Absent a specific appropriation for this purpose, the General Assembly (1) directs the State Board of Education to set its priorities regarding the use of remaining funds so as to serve the pupils in the classrooms most
advantageously, (2) authorizes the State Board of Education to change other allotment formulas as necessary to achieve the statutory class size maxima, and (3) directs the State Board of Education to assure compliance by each local board of education with these directions.

Sec. 29.10. Notwithstanding other provisions of law, the State Board of Education may allow a class size maximum of 29 pupils in kindergarten through grade three as may be necessary due to K-3 allotment ratio of 1:26 for 1981-83.

—PUBLIC SCHOOLS — ENERGY COSTS

Sec. 29.11. Funds appropriated in Section 2 of this act to the Department of Public Education, Fiscal Administration and Support, in the amount of five million dollars ($5,000,000), for the 1981-82 fiscal year shall be used to provide the largest percentage possible of the total energy costs of the public schools. These funds shall not be used for any purpose other than to offset the direct energy expenditures of the local schools. Unexpended appropriations for energy shall revert to the General Fund on June 30, 1982.

—TEACHER PERFORMANCE STANDARDS

Sec. 29.12. G.S. 115C-326 as it appears in Chapter 423 of the 1981 Session Laws is amended by deleting the year "1981" wherever it appears and by substituting in lieu thereof the year "1982".

By allowing for the delay in implementation of this section, the General Assembly intends to allow time for testing the standards and criteria in up to 24 local school administrative units and for proper and necessary training of personnel involved in the implementation. It is also the legislative intent that standards and criteria utilized in the initial programs include the use of test scores as one of many possible measures of performance.

Sec. 29.13. Of the funds appropriated to the Department of Public Education in Section 2 of this act, the State Board of Education may spend up to twenty-five thousand dollars ($25,000) for the implementation of performance standards and criteria as provided in G.S. 115C-326 and Section 29.12 of this act.

PART VIII. — SPECIAL PROVISIONS/COMMUNITY COLLEGES

—FULL-TIME EQUIVALENT TEACHING POSITIONS/COMMUNITY COLLEGES

Sec. 30. For the purpose of determining the Community College system-wide number of full-time equivalent (FTE) teaching positions each year, the total curriculum and extension full-time equivalent student enrollment shall be divided by 22.

—BOOKS AND EQUIPMENT APPROPRIATIONS/REVERT AFTER ONE YEAR/ COMMUNITY COLLEGES

Sec. 31. Appropriations in Section 2 of this act to the Department of Community Colleges for equipment and library books are made for each year of the biennium. All unencumbered appropriations shall revert to the General Fund 12 months after the close of each fiscal year for which they were appropriated. Encumbered balances outstanding at the end of each period shall be handled in accordance with existing State budget policies.

—OPERATING APPROPRIATIONS/NOT USED FOR RECREATION EXTENSION/ COMMUNITY COLLEGES

Sec. 32. Funds appropriated in Section 2 of this act to the Department of Community Colleges as operating expenses for allocation to the institutions comprising the Community College System shall not be used to support
recreation extension courses. The financing of these courses by any institution shall be on a self-supporting basis and membership hours produced from these activities shall not be counted when computing full-time equivalent students for use in budget-funding formulas at the State level.

—BOARD OF COMMUNITY COLLEGES REVISE FORMULA AMOUNTS

Sec. 33. The State Board of Community Colleges may, with the approval of the Director of the Budget, revise the formulas for allocating operating funds to the community colleges and technical institutes. Increases in any per unit formula amounts shall be accompanied by decreases in other per unit formula amounts to produce an equivalent reduction in expenditures.

—COMMUNITY COLLEGE STUDY/HIGH COST SPECIALIZED PROGRAMS

Sec. 33.1. The State Board of Community Colleges shall study the high-cost specialized programs of (1) Heavy Equipment Operators Program at Wilson County Technical Institute, (2) Marine Technology Program at Cape Fear Technical Institute, (3) Wood Products Program at Haywood Technical Institute and (4) Truck Driver Training Program at Johnston Technical Institute, to determine a method of nonformula funding sufficient to meet total direct operating costs. The results of this study shall be reported to the Joint Appropriations Committee in the 1982 Session of the General Assembly and, if approved, shall be used by the Department of Community Colleges in formulating the 1983-85 budget requests.

—ASSISTANCE TO HOSPITAL NURSING/FUND DISTRIBUTION/COMMUNITY COLLEGES

Sec. 34. Funds appropriated in Section 2 of this act to the Department of Community Colleges to provide financial assistance to hospital programs of nursing education leading to diplomas in nursing which are fully accredited by the North Carolina Board of Nursing and operated under the authority of a public or nonprofit hospital licensed by the North Carolina Medical Care Commission shall be distributed, upon application for financial assistance, on the basis of eight hundred fifty dollars ($850.00) for each full-time student duly enrolled in the program as of December 1 of the preceding year and on condition that accreditation is maintained. The State Board of Community Colleges shall make rules and regulations necessary to ensure that this financial assistance is used directly for faculty and instructional needs of diploma nursing programs.

—SALARY INCREMENT FUND/COMMUNITY COLLEGE PERSONNEL

Sec. 35. Funds appropriated to the Department of Community Colleges in Section 2 of this act in the amount of five million four hundred thirty thousand seven hundred thirty dollars ($5,430,730) in fiscal year 1981-82 and ten million eight hundred sixty-three thousand three hundred twenty-eight dollars ($10,863,328) in fiscal year 1982-83 for salary increases of institutional personnel of the community college system are in lieu of specific appropriations for salary increments as are provided for State employees subject to the State Personnel Act. These funds shall be allocated to individuals in accordance with rules and regulations established by the State Board of Community Colleges and may not be used for any purpose other than for salary increases and necessary employer's contributions.
ELIMINATE COMMUNITY COLLEGE TUITION/HIGH SCHOOL COURSES

Sec. 35.1. G.S. 115D-5(b) is amended in the third sentence by inserting immediately after the phrase "for waiver of tuition and registration fees" the phrase "for persons not enrolled in elementary or secondary schools taking courses leading to a high school diploma or equivalent certificate."

STAFF SALARIES/STATE BOARD OF COMMUNITY COLLEGES

Sec. 35.2. G.S. 115D-3 is amended by rewriting the second sentence in the third paragraph to read:

"The State Board shall fix the compensation of the staff members it elects, subject to the approval of the Governor and the Advisory Budget Commission."

JOB TRAINING PROGRAM/VANCE-GRANVILLE COMMUNITY COLLEGE

Sec. 35.3. The State Board of Community Colleges shall allocate from funds available to it the sum of five hundred thousand dollars ($500,000) for fiscal year 1981-82 to establish a demonstration project of cooperative programs between Vance-Granville Community College and the public high schools in Vance, Granville, Warren and Franklin Counties. These funds shall be used to operate and equip programs in industrial maintenance, electronics technology and electronic data processing. The State Board of Community Colleges shall work with Vance-Granville Community College in establishing these programs as models for the other institutions in the community college system to follow in establishing similar cooperative programs under the dual enrollment plan. The full-time equivalent (FTE) membership earned in these model programs shall be counted for regular budget FTE for subsequent years allocation to ensure continued operating funds.

PART IX.—SPECIAL PROVISIONS/HIGHER EDUCATION

WAKE FOREST AND DUKE MEDICAL SCHOOL ASSISTANCE/FUNDING FORMULA

Sec. 36. Funds appropriated in Section 2 of this act to the Board of Governors of The University of North Carolina for continuation of financial assistance to the medical schools of Duke University and Wake Forest University shall be disbursed on certifications of the respective schools of medicine that show the number of North Carolina residents as first-year, second-year, third-year, and fourth-year students in the medical school as of November 1, 1981, and November 1, 1982. Disbursement to Wake Forest University shall be made in the amount of eight thousand dollars ($8,000) for each medical student who is a North Carolina resident, one thousand dollars ($1,000) of which shall be placed by the school in a fund to be used to provide financial aid to needy North Carolina students who are enrolled in the medical school. The maximum aid given to any student from this fund in a given year shall not exceed the amount of the difference in tuition and academic fees charged by the school and those charged at the School of Medicine at The University of North Carolina at Chapel Hill.

Disbursement to Duke University shall be made in the amount of five thousand dollars ($5,000) for each medical student who is a North Carolina resident, five hundred dollars ($500.00) of which shall be placed by the school in a fund to be used to provide student financial aid to financially needy North Carolina students who are enrolled in the medical school. No individual student shall be awarded assistance from this fund in excess of two thousand dollars.
($2,000) each year. In addition to this basic disbursement for each year of the 1981-83 biennium, a disbursement of one thousand dollars ($1,000) shall be made for each medical student who is a North Carolina resident in the first-year, second-year, third-year and fourth-year classes to the extent that enrollment of each of those classes exceeds 30 North Carolina students.

The Board of Governors shall establish the criteria for determining the eligibility for financial aid of needy North Carolina students who are enrolled in the medical schools and shall review the grants or awards to eligible students. The Board of Governors shall promulgate regulations for determining which students are residents of North Carolina for the purposes of these programs. The Board shall also make any regulations as necessary to ensure that these funds are used directly for instruction in the medical programs of the schools and not for religious or other nonpublic purposes. The Board shall encourage the two schools to orient students towards personal health care in North Carolina giving special emphasis to family and community medicine.

AID TO PRIVATE COLLEGES/PROCEDURE

Sec. 37. Funds appropriated in this act to the Board of Governors of The University of North Carolina for aid to private colleges shall be disbursed in accordance with the provisions of G.S. 116-19, G.S. 116-21, and G.S. 116-22. These funds shall provide up to two hundred dollars ($200.00) per full-time equivalent North Carolina undergraduate student enrolled at a private institution as of October 1 each year.

These funds shall be placed in a separate, identifiable account in each eligible institution’s budget/chart of accounts. All funds in this account shall be provided as scholarship funds for needy North Carolina students during the fiscal year. Each student awarded a scholarship from this account shall be notified of the source of the funds and of the amount of the award. Funds not utilized under G.S. 116-19 shall be for the tuition grant program as defined in Section 38 of this act.

Sec. 38. In addition to any funds appropriated pursuant to G.S. 116-19 and in addition to all other financial assistance made available to private educational institutions located within the State, or to students attending such institutions, there is granted to each full-time North Carolina undergraduate student attending an approved institution as defined in G.S. 116-22, the sum of six hundred dollars ($600.00) per academic year in 1981-82 and the sum of six hundred fifty dollars ($650.00) per academic year in 1982-83 which shall be distributed to the student as hereinafter provided.

The tuition grants provided for in this section shall be administered by the State Education Assistance Authority pursuant to rules and regulations promulgated by the State Education Assistance Authority not inconsistent with this act. The State Education Assistance Authority shall not approve any grant until it receives proper certification from an approved institution that the student applying for the grant is an eligible student. Upon receipt of the certification, the State Education Assistance Authority shall remit at such times as it shall prescribe the grant to the approved institution on behalf, and to the credit, of the student.

In the event a student on whose behalf a grant has been paid is not enrolled and carrying a minimum academic load as of the 10th classroom day following the beginning of the school term for which the grant was paid, the institution shall refund the full amount of the grant to the State Education Authority.
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Assistance Authority. Each approved institution shall be subject to examination by the State Auditor for the purpose of determining whether the institution has properly certified eligibility and enrollment of students and credited grants paid on the behalf of the students.

In the event there are not sufficient funds to provide each eligible student with a full grant, each eligible student shall receive a pro rata share of funds then available for the remainder of the academic year within the fiscal period covered by the current appropriation. Any remaining funds shall revert to the General Fund.

Sec. 39. Expenditures made pursuant to Sections 37 and 38 of this act shall be used for secular educational purposes only.

—PRIVATE COLLEGE STUDENT ASSISTANCE PROGRAM FUNDING

Sec. 39.1. By the end of fiscal year 1986-87, the General Assembly intends to provide for the private college student assistance programs within North Carolina, a reasonable per-student funding level compared to the per-student State appropriation during the preceding fiscal year for the institutions under the Board of Governors of The University of North Carolina.

—ACADEMIC PERSONNEL MERIT SALARY FUNDS/HIGHER EDUCATION

Sec. 41. Funds appropriated to The University Board of Governors in Section 2 of this act in the amount of fourteen million seven hundred ten thousand three hundred ninety-five dollars ($14,710,395) in the fiscal year 1981-82 and twenty-nine million seven hundred forty-eight thousand six hundred sixty dollars ($29,748,660) for merit salary increases for employees of The University of North Carolina who are exempt from the State Personnel Act are in lieu of specific appropriations for salary increments and longevity payments as are provided for State employees subject to the State Personnel Act and public school employees. These funds shall be allocated to individuals in accordance with rules and regulations established by the Board of Governors and may not be used for any purpose other than for salary increases and necessary employer's contributions.

—CONTINUATION BUDGET REDUCTIONS/HIGHER EDUCATION

Sec. 41.1. The funds appropriated in Section 2 of this act to North Carolina State University, Academic Affairs, and to East Carolina University, reflect a reduction in the 1981-83 continuation budgets recommended to the General Assembly by the Governor and Advisory Budget Commission. Each of these universities may apply the foregoing reductions as it deems appropriate; however, any reduction in the continuation budgets for the North Carolina State University School of Veterinary Medicine and the East Carolina University School of Medicine must receive prior approval of the Governor and Advisory Budget Commission.

—INTEREST PROCEEDS ON SALE OF UNIVERSITY UTILITIES

Sec. 41.2. Section 11 of 1971 Session Laws Chapter 723, as amended by Section 31 of Chapter 983 of 1975 Session Laws, Second Session 1976, is further amended by redesignating subsection (c) as subsection (d) and by adding a new subsection (c) to read:

"All investment income earned on the proceeds from the sale and lease of real and personal property disposed of pursuant to this act shall be credited to the General Fund of the State."
—EXTENSION INSTRUCTION PROGRAM STUDY/UNIVERSITY OF NORTH CAROLINA

Sec. 41.3. The Board of Governors of The University of North Carolina shall report to the 1983 General Assembly by March 1, 1983, on steps taken to establish a uniform system for classification, fee structure and costs of Extension Instruction Programs within the University System.

—UNIVERSITY TUITION INCREASES

Sec. 41.4. (a) The appropriations in Section 2 of this act to the Board of Governors of The University of North Carolina and its constituent institutions have been adjusted to reflect additional income in anticipation of actions by the Board of Governors to increase tuition at the constituent institutions.

(b) The provisions of G.S. 116-11(7), which reads "The board shall set tuition and required fees at the institutions, not inconsistent with actions of the General Assembly" are reenacted and are incorporated in this act by reference.

(c) G.S. 116-143 is amended in line three of the third paragraph by adding after the word "statute" the words "or by the Board of Governors of The University of North Carolina".

(d) The fourth paragraph of G.S. 116-143 is repealed.

(e) Reduction of tuition may not occur as a result of this act.

—MEMORIAL HOSPITAL/SOCIAL SECURITY NUMBER DISCLOSURE REQUIREMENT

Sec. 41.5. G.S. 116-37 is amended by adding a new subsection to read:

"(h) Patient Information.—North Carolina Memorial Hospital shall, at the earliest possible opportunity, specifically make a verbal and written request to each patient to disclose his Social Security number, if any. If the patient does not disclose that number, North Carolina Memorial Hospital shall deny benefits, rights and privileges of the hospital to the patient as soon as practical, to the maximum extent permitted by federal law or federal regulations. North Carolina Memorial Hospital shall make the disclosure to the patient required by Section 7(b) of P.L. 93-579. This subsection is supplementary to G.S. 105A-3(c)."

PART X.—SPECIAL PROVISIONS/RETIREES' BENEFITS

—ADDITIONAL COST-OF-LIVING ALLOWANCE INCREASES IN TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM

Sec. 42. G.S. 135-5 is amended by adding a new subsection (dd) to read:

"(dd) From and after July 1, 1981, the retirement allowance to or on account of the beneficiaries whose retirement commenced prior to July 1, 1980, shall be increased by three percent (3%). These increases shall be calculated on the basis of the allowance payable and in effect on June 30, 1980, so as not to compound on the increases otherwise payable under paragraphs (bb), (cc) and (ee) of this section."

—STATUTORY REFERENCE CORRECTION TO 1980-81 COST-OF-LIVING ALLOWANCE INCREASE/TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM

Sec. 42.1. The reference "(x4)" in the sixth line of G.S. 135-5(bb), as contained in the 1981 Replacement Volume 3B of the General Statutes of North Carolina, is changed to read "(cc)".

—ADDITIONAL COST-OF-LIVING ALLOWANCE INCREASES FOR RETIRED LAW ENFORCEMENT OFFICERS
Sec. 43. G.S. 143-166 is amended by adding a new subsection (x5) to read:

"(x5) From and after July 1, 1981, the retirement allowance to or on account of beneficiaries whose retirement commenced between July 1, 1976, and July 1, 1979, shall be increased by a percentage in accordance with the following schedule:

<table>
<thead>
<tr>
<th>Period in Which Retirement Commenced</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 1, 1976 to June 30, 1977</td>
<td>5-1/2%</td>
</tr>
<tr>
<td>July 1, 1977 to July 1, 1979</td>
<td>7%</td>
</tr>
</tbody>
</table>

These increases shall be calculated on the basis of the retirement allowance payable and in effect on June 30, 1980, so as not to compound on the increases otherwise payable under subsections (x3), (x4) and (x6) of this Article."

—ADJUSTING INCREASE IN ALLOWANCES IN THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM

Sec. 44. G.S. 135-5 is amended by adding a new subsection (ee) to read:

"(ee) Adjustment in Allowances Paid Beneficiaries Whose Retirement Commenced Prior to July 1, 1980. From and after July 1, 1981, the retirement allowance to or on account of beneficiaries whose retirement commenced prior to July 1, 1980, shall be adjusted by an increase of one and three-tenths percent (1.3%). This adjustment shall be calculated on the basis of the allowance payable and in effect on June 30, 1980, so as not to compound on the increases otherwise payable under paragraphs (bb), (cc) and (dd) of this section."

—ADJUSTING INCREASE IN ALLOWANCES IN THE LAW ENFORCEMENT OFFICERS' BENEFIT AND RETIREMENT FUND

Sec. 45. G.S. 143-166 is amended by adding a new subdivision (x6) to read:

"(x6) From and after July 1, 1981, the retirement allowance to or on account of beneficiaries whose retirement commenced prior to July 1, 1980, shall be adjusted by an increase of one and three-tenths percent (1.3%). This adjustment shall be calculated on the basis of the allowance payable and in effect on June 30, 1980, so as not to compound on the increases otherwise payable under subsections (x3), (x4) and (x5) of this Article."

—RETIRED MEMBERS COST-OF-LIVING ALLOWANCE INCREASES EQUAL TO ACTIVE MEMBERS COST-OF-LIVING INCREASES

Sec. 45.1. It is the intent of the General Assembly to provide cost-of-living increases in retirement allowances for members in the State-supported retirement systems equal to the cost-of-living increases provided for active members of the systems. These increases shall include the cost-of-living increases provided in the laws establishing the several retirement systems.

—UNREDUCED RETIREMENT ALLOWANCE/TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM

Sec. 45.2. Notwithstanding the provisions of Chapter 135 of the General Statutes, any member of the Teachers' and State Employees' Retirement System who is at least 60 years of age with 25 or more years of creditable service at retirement shall be entitled to an unreduced service retirement allowance based upon the number of years of creditable service at the time of retirement. For each month that this unreduced service retirement precedes a member's 65th birthday, or the completion of 30 years of creditable service, whichever is the smaller, a member shall pay to the Board of Trustees of the Teachers' and State Employees' Retirement System, to be credited to the member's account in the Annuity Savings Fund, an amount equal to one half of one percent (1/2 of
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1% multiplied by the highest annual salary paid during the last consecutive four years of service. The provisions of this section shall be funded by an increase in the employer contribution rate. This section shall be effective only through June 30, 1983, and shall be applicable to those members whose retirement becomes effective before June 1, 1983.

—SALARY-RELATED CONTRIBUTIONS/EMPLOYERS

Sec. 45.3. Required employer salary-related contributions for employees whose salaries are paid from department, office, institution, or agency receipts shall be paid from the same source as the source of the employee’s salary. If an employee’s salary is paid in part from the General Fund and in part from department, office, institution, or agency receipts, required employer salary-related contributions shall be paid from the General Fund only to the extent of the proportionate part paid from the General Fund in support of the salary of the employee, and the remainder of the employer’s requirements shall be paid from the source which supplies the remainder of the employee’s salary. The requirements of this section as to source of payment are also applicable to payments on behalf of the employee for hospital-medical insurance, longevity, and unemployment insurance.

The State employer contribution percentage rates of salaries budgeted for the retirement systems for 1981-83 are: (1) 9.92 - Teachers and State Employees, (2) 5.64 - Law Enforcement Officers, (3) 30.77 - Uniform Judicial, (4) 24.03 - Uniform Solicitorial, and (5) 29.00 - Uniform Clerks of Superior Court.

PART XI.—SPECIAL PROVISIONS/JUDICIAL DEPARTMENT

—APPELLATE JUDGES/EMERGENCY JUDGES

Sec. 46. G.S. 7A-39.3(b) is amended to read:

“(b) In addition to the compensation or retirement allowance he would otherwise be entitled to receive by law, each emergency justice or emergency judge recalled for temporary active service shall be paid by the State his actual expenses, plus seventy-five dollars ($75.00) for each day of active service rendered upon recall.”

—TRIAL JUDGES/EMERGENCY JUDGES

Sec. 47. G.S. 7A-52(b) is amended to read:

“(b) In addition to the compensation or retirement allowance he would otherwise be entitled to receive by law, each emergency judge of the district or superior court who is assigned to temporary active service by the Chief Justice shall be paid by the State his actual expenses, plus seventy-five dollars ($75.00) for each day of active service rendered upon recall.”

—FISCAL INDEPENDENCE OF ADMINISTRATIVE OFFICE OF THE COURTS

Sec. 47.1. Article 1 of Chapter 143 of the General Statutes, the Executive Budget Act, is amended as follows:

(a) By deleting the phrase “State Auditor and the State Treasurer” and substituting “State Auditor, State Treasurer, and Administrative Office of the Courts” in the fifth and sixth lines of the last paragraph of G.S. 143-2, in the first and second sentences of G.S. 143-23.1, and in the next to last sentence of G.S. 143-25.

(b) By deleting the phrase “State Auditor and the State Treasurer” and substituting “State Auditor, State Treasurer, and Administrative Officer of the Courts” in the second and third lines of the last paragraph of G.S. 143-2, in the
last sentence of G.S. 143-3, in the second sentence of G.S. 143-3.2, and in both places in the last sentence of G.S. 143-28.

(c) By deleting the phrase "State Auditor and the State Treasurer" in the third line of the fourth paragraph of G.S. 143-4 and substituting "State Auditor, State Treasurer, and Administrative Office of the Courts"; and by deleting the phrase "State Auditor and State Treasurer" in the fourth and fifth lines of the same paragraph and substituting "State Auditor, State Treasurer, and Administrative Officer of the Courts".

(d) By deleting the phrase "Auditor's office and the Treasurer's office" in the last sentence of G.S. 143-17 and substituting "State Auditor's office, State Treasurer's office, and Administrative Office of the Courts".

PART XII.—SPECIAL PROVISIONS/DEPARTMENT OF ADMINISTRATION

STATE-OWNED MOTOR VEHICLES

Sec. 48. G.S. 143-341(8)i.3. is amended to read:

"3. To require on a schedule determined by the Department and the Advisory Budget Commission all State agencies to transfer ownership, custody or control of any or all passenger motor vehicles within the ownership, custody or control of that agency to the Department, except those motor vehicles under the ownership, custody or control of the Highway Patrol or the State Bureau of Investigation which are used primarily for law enforcement purposes."

Sec. 49. G.S. 143-341(8)i.7. is amended by deleting the language "Council of State" wherever it appears and substituting "Advisory Budget Commission".

Sec. 50. G.S. 143-341(8)i.8. is amended to read:

"8. To adopt and administer rules and regulations for the control of all State-owned passenger motor vehicles and to require State agencies to keep all records and make all reports regarding motor vehicle use as the Secretary deems necessary."

Sec. 51. G.S. 143-341(8)i. is amended by adding a new sub-part to read:

"7a. To adopt, with the approval of the Governor and the Advisory Budget Commission, rules and regulations to assure that by January 1, 1982, no State-owned passenger motor vehicle, whether or not owned by the Department, shall be permanently assigned to an individual unless the vehicle is likely to be driven by him at a rate of more than 12,600 miles per year on official business, and to enforce these rules and regulations; and to adopt, with the approval of the Governor and the Advisory Budget Commission, rules and regulations regulating the use of and reimbursement for permanently assigned State-owned passenger motor vehicles to commute. Exceptions to the rules regarding the permanent assignment of State-owned passenger motor vehicles may be made for individuals whose duties are routinely related to public safety or whose duties are likely to expose them routinely to life threatening situations. An individual who drives a permanently assigned State-owned passenger motor vehicle between his official work station and his home shall reimburse the State for the trips at the current motor pool mileage rate established by the Department. If the round trip is 13 miles or less, reimbursement shall be for 13 miles times 20 work days per month; if the round trip is more than 13 miles, reimbursement shall be for the actual round trip mileage times 20 work days per month. Reimbursement shall be made by payroll deduction. Funds derived from reimbursements on vehicles owned by the Central Motor Pool shall be deposited to the credit of the Central Motor Pool; funds derived from
reimbursements on vehicles initially purchased with appropriations from the Highway Fund and not owned by the Central Motor Pool shall be deposited to a Special Depository Account in the Department of Transportation which shall revert to the Highway Fund; funds derived from reimbursements on all other vehicles shall be deposited to a Special Depository Account in the Department of Administration which shall revert to the General Fund. No reimbursement shall be required for the use of vehicles by law enforcement officers whose primary duties are not administrative.

The Department, with the approval of the Governor and the Advisory Budget Commission, may delegate to the respective heads of agencies which own passenger motor vehicles or to which motor vehicles are permanently assigned by the Department, the duty of enforcing the rules and regulations adopted by the Department pursuant to the paragraph above."

Sec. 52. G.S. 14-247 is amended by adding a new sentence after the first sentence to read:

"It is not a private purpose to drive a permanently assigned State-owned motor vehicle between one's official work station and one's home as provided in G.S. 143-341(8)i.7a."

Sec. 53. G.S. 14-247 is amended by adding a new paragraph to read:

"It shall be unlawful for any person to violate a rule or regulation adopted by the Department of Administration and approved by the Governor and the Advisory Budget Commission concerning the control of all State-owned passenger motor vehicles as provided in G.S. 143-341(8)i. with the intent to defraud the State of North Carolina."

Sec. 54. No motor vehicles shall be purchased by any State department, institution or agency without written approval of the Department of Administration. The Director of the Budget may transfer from the budget for motor vehicle purchase in any State department, institution or agency to the Department of Administration, funds necessary to purchase or replace vehicles that will be or have been transferred from that State department, institution or agency to the Central Motor Pool. This provision is necessary in order to effectuate an orderly transfer of passenger motor vehicles from these State departments, institutions or agencies to the Central Motor Pool.

Sec. 55. The Office of Administrative Analysis, Department of Administration shall conduct a study of the following:

(1) The number, utilization, and condition of all State-owned passenger motor vehicles.

(2) The current operations of maintenance garages operated by all departments of State government. The study shall include the number, type and size of garage in each county, staff workloads, equipment utilization and capacity, administration and operation, charges made to other departments for services rendered, and possible savings and increased efficiency from consolidation or other methods of cooperation.

(3) The feasibility of the State making major repairs and rebuilding school buses and State-owned motor vehicles.

Progress reports shall be made every five months to the Speaker of the House of Representatives, the President Pro Tempore of the Senate and the Fiscal Research Division of the Legislative Services Office. The final report shall include findings and recommendations and shall be made to all members of the 1983 General Assembly on February 1, 1983.
STATE EMPLOYEE TRAVEL ALLOWANCE

Sec. 56. Funds appropriated in Section 2 of this act for the Reserve for Travel may only be expended for approved and necessary travel expenses of State employees and officials. Any funds remaining in the Reserve for Travel at the end of each fiscal year shall revert to the General Fund.

Exception that, three thousand five hundred dollars ($3,500) shall be made available each year of the biennium from this Reserve to the Office of Administrative Analysis, Department of Administration, to conduct the statewide study of maintenance garages and State-owned motor vehicles as directed in Sec. 55 of this act.

Sec. 57. G.S. 138-6(a)(3) is amended by adding a new sentence at the end to read:

"Reimbursement to State employees for lunches eaten while on official business may be made only in the following circumstances:

a. when an overnight stay is required reimbursement is allowed while an employee is in travel status;

b. when the cost of the lunch is included as part of a registration fee for a formal congress, conference, assembly, or convocation, by whatever name called. Such assembly must involve the active participation of persons other than the employees of a single State department, institution, or agency and must be necessary for conducting official State business."

Sec. 58. G.S. 138-6 is amended by adding a new subsection to read:

"(c) Costs of overnight stays, whether in-state or out-of-state, shall not be reimbursed without prior written approval of the official designated by the head of the department or agency. The statement of prior approval shall be attached to the reimbursement request. All reimbursement requests shall be filed for approval and payment within 30 days after the travel period for which the reimbursement is being requested."

Sec. 59. G.S. 138-6(a)(1) is amended by changing the semicolon at the end of that subsection to a period and by adding a new sentence to read:

"No reimbursement shall be made for the use of a personal car in commuting from an employee’s home to his duty station in connection with regularly scheduled work hours. Any designation of an employee’s home as his duty station by a department head shall require prior approval by the Office of State Budget and Management on an annual basis. The State Auditor shall in the routine audit of an agency determine compliance with this subdivision."

LIMIT USE OF REGULAR LICENSE PLATES/STATE-OWNED MOTOR VEHICLES

Sec. 60. The General Assembly finds that the practice of using regular license tags on State-owned vehicles is subject to abuse; therefore, the Council of State shall limit the use of regular license tags. The Council of State shall report to the General Assembly by May 1, 1982, the number of individuals in each department assigned regular tags and the justification for their use.

CONTRACT FOR FIRE PROTECTION OF STATE PROPERTIES

Sec. 61. The Department of Administration shall negotiate with the Fairgrounds Rural Volunteer Fire Department in Wake County a contract for fire protection of State facilities and property at a cost not to exceed seventy-five thousand dollars ($75,000) in the 1981-82 fiscal year and twenty-five
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thousand dollars ($25,000) in the 1982-83 fiscal year. Appropriations for this purpose shall not become part of the continuation budget.

—PLAN FOR USE OF TEXTBOOK WAREHOUSE/DEPARTMENT OF ADMINISTRATION

Sec. 62. The Department of Administration shall prepare a plan for the use of the space in the Textbook Warehouse. The plan shall include an analysis of staff needs, possible dollar savings and the impact of installing shelving in the warehouse. The Department shall report to the General Assembly on the plan by September 15, 1981.

—SURPLUS MICROSCOPES MAY BE GIVEN TO SCHOOLS

Sec. 63. The Office of Marine Affairs, Department of Administration, shall give its surplus microscopes to the public schools of the State, including the North Carolina School of Science and Mathematics and institutions under the governance of the Department of Community Colleges, which are unable to supply an adequate number of microscopes to their students. The departments of Public Instruction, Human Resources and Administration shall report to the Office of Marine Affairs the need for microscopes in the schools under their authority.

—TRANSFER FROM EQUIPMENT RESERVE FUND TO STATE SURPLUS PROPERTY WAREHOUSE

Sec. 64. The Director of the Budget shall transfer from the Equipment Reserve Fund to the Department of Administration the sum of fifty-three thousand fifty-one dollars ($53,051) for the operation of the State Surplus Property Warehouse for fiscal year 1981-82.

—WATER AND SEWER REVOLVING FUND REVERSION

Sec. 65. Funds appropriated from the General Fund to the Regional Water Supply Planning Revolving Fund and the Regional Sewage Disposal Planning Revolving Fund, now consolidated as the Water and Sewer Revolving Fund under the control and direction of the Department of Administration, that have not been allotted for advances to cities, sanitary districts, or regional water or sewer authorities by June 30, 1981, shall revert to the General Fund. Any funds paid to the Department of Administration on or after July 1, 1981, by recipients of advances from the Water and Sewer Revolving Fund, or from the predecessor separate funds, as repayment for those advances, shall be paid into the General Fund.

—EMERGENCY FUEL STORAGE FUNDS/REVERSION

Sec. 66. Section 44 of Chapter 1190 of the 1973 Session Laws is repealed. All funds in the revolving fund for an emergency fuel storage program established in that section shall revert to the General Fund.

—1967 ADVANCE PLANNING RESERVE FOR INSTITUTIONAL FACILITIES


PART XIII—SPECIAL PROVISIONS/DEPARTMENT OF TRANSPORTATION

—HIGHWAY CONSULTANT CONTRACTS

Sec. 68. G.S. 136-28.1(f) is rewritten to read as follows:

“(f) The Department of Transportation is required to solicit proposals under rules and regulations published by the Department of Transportation for all
contracts for professional engineering services and other kinds of professional or specialized services necessary in connection with highway construction or repair that are over ten thousand dollars ($10,000). The right to reject any and all proposals is reserved to the Board of Transportation, but the award of these contracts, if approved by the Board of Transportation, shall be subject to the approval of the Advisory Budget Commission."

——HIGHWAY RIGHT-OF-WAY PURCHASES

Sec. 69. G.S. 136-44.11 is amended by designating the present statute as subsection (a) and by adding a new subsection (b) to read:

“(b) Requests to the Board of Transportation for allocation of funds for the purchase of right-of-way shall include an estimated time schedule to complete all necessary right-of-way purchases related to a specific project, and a proposed date to award construction contracts for that project. If the anticipated construction contract date is more than two years beyond the estimated completion of the related right-of-way purchases, the approval of both the Board of Transportation and the Director of the Budget is required.”

——HIGHWAY EQUIPMENT FUND MODIFICATIONS

Sec. 70. The unencumbered liability of the Highway Current Fund to the Highway Equipment Fund on June 30, 1981, is cancelled. The balance cancelled shall be offset by the transfer of all inventory of equipment repair parts and supplies from the Current Fund to the Equipment Fund.

The funds budgeted for depreciation in the 1981-83 biennium shall be the authorized budget for equipment purchases by the Highway Equipment Fund and may be increased only with the approval of the Director of the Budget.

——CREW-SIZE REDUCTIONS/DEPARTMENT OF TRANSPORTATION

Sec. 71. The Department of Transportation shall reduce its crew-size standards in the Division of Highways and make these standards more uniform statewide. The Department shall report to the General Assembly by October 1, 1981, its new standards, the number of positions to be eliminated under the new standards, the anticipated dollar savings and the impact on levels of service.

——RESURFACING CONTRACT BID SPECIFICATIONS

Sec. 72. The Department of Transportation shall monitor the comparative costs of recycled asphalt and new plant-mixed asphalt through bid alternates on resurfacing project bid specifications.

——HIGHWAY COST ALLOCATION STUDY

Sec. 73. The Department of Transportation shall undertake a highway cost allocation study which will consider costs of right-of-way, construction and maintenance attributable to the various vehicular classes of highway users. The Department of Transportation shall make an interim report of the results of this study to the General Assembly by May 1, 1982, and a final report by March 1, 1983.

——REVIEW OF ROAD CONSTRUCTION PROGRAM

Sec. 74. The Board of Transportation shall review its annual construction program formulated under G.S. 136-44.4 in order to prepare revised cost estimates, to reassess the need for each project in the plan, and to eliminate all projects which cannot be justified on objective bases of high traffic demand, highway safety and other criteria established by the Board. The Board shall report the results of its review, corresponding changes in its construction plans and the criteria used to establish priorities of projects to the General Assembly by March 1, 1982.
—ANNUAL HIGHWAY CONSTRUCTION AND MAINTENANCE REPORT TO THE GENERAL ASSEMBLY

Sec. 75. The Department of Transportation shall report to each member of the General Assembly by March 1 of each year how the previous fiscal year's funds for maintenance and construction were allocated and expended. The report shall include expenditures of both State and federal funds and shall be in sufficient detail that the county and project can be identified. To the extent practicable, the report shall identify the types of expenditures such as salaries and wages, equipment and supplies.

—CHANGE OF COMMISSION CONTRACT RATE FOR MOTOR VEHICLE TRANSACTIONS

Sec. 76. (1) On July 1, 1981, the fourth sentence of G.S. 20-63(h) is amended to read:
"Commission contracts entered under this subsection shall provide for the payment of compensation at a rate of fifty-five cents (55¢) per transaction."

(2) On July 1, 1982, the fourth sentence of G.S. 20-63(h) is amended to read:
"Commission contracts entered under this subsection shall provide for the payment of compensation at a rate of sixty cents (60¢) per transaction."

—GASOLINE TAX AUDIT TRANSFER

Sec. 77. G.S. 20-86.1 is amended by adding a new subsection to read:
"(c) Any auditing function associated with the International Registration Plan shall be performed by the Department of Revenue."

Sec. 78. G.S. 20-91 is amended by adding a new subsection to read:
"(f) To the extent necessary to perform the auditing functions associated with the International Registration Plan, the Secretary of Revenue shall have the same authority granted to the Commissioner of Motor Vehicles by this section."

Sec. 79. G.S. 105-260 is amended by inserting between the word "Subchapter" and the semicolon the following: "and any auditing function associated with the International Registration Plan for motor vehicles."

Sec. 80. G.S. 105-262 is amended by adding the following at the end of that section:
"The Secretary of Revenue may also adopt rules, and prescribe forms, as necessary for auditing associated with the International Registration Plan for motor vehicles."

Sec. 81. G.S. 143B-218 is amended by adding the following at the end of that section:
"It shall also be the duty of the Department to perform any auditing function associated with the International Registration Plan for motor vehicles."

Sec. 82. G.S. 143B-219(a) is amended by adding the following at the end of that subsection:
"The functions of the Department shall also include auditing functions associated with the International Registration Plan for motor vehicles."

Sec. 83. The Director of the Budget shall transfer to the Department of Revenue all funds appropriated to, and all personnel positions assigned to the Department of Transportation, Division of Motor Vehicles, for auditing functions associated with the International Registration Plan.

—STATE FUNDING OF FEDERALLY ELIGIBLE ROAD PROJECTS
Sec. 84. G.S. 136-44.2 is amended by rewriting the fourth paragraph to read:

"The Department of Transportation shall have all powers necessary to comply fully with provisions of present and future federal-aid acts. No federally eligible construction project may be funded entirely with State funds unless the Joint Legislative Commission on Governmental Operations has given its prior approval for that expenditure or has failed to give or deny approval within 60 days of receiving a request for approval from the Department of Transportation. For purposes of this section, 'federally eligible construction project' means any construction project except secondary road projects developed pursuant to G.S. 136-44.7 and G.S. 136-44.8 eligible for federal funds under any federal-aid act, whether or not federal funds are actually available."

Sec. 85. G.S. 120-74 is amended in the first sentence by deleting the number "13" and substituting "14" and in the third sentence by deleting the word "four" and substituting "five".

Sec. 86. G.S. 120-75 is amended to read:

"§ 120-75. Organization of the Commission.—The President of the Senate and the Speaker of the House of Representatives shall serve as cochairmen of the Commission. Either of the cochairmen may call a meeting of the Commission."

Sec. 87. G.S. 120-76 is amended by adding a new subdivision (7) to read:

"(7) To evaluate and approve or deny requests from the Department of Transportation regarding the funding of federally eligible construction projects as provided in the fourth paragraph of G.S. 136-44.2."

Sec. 88. G.S. 120-79(a) is amended by deleting the word "chairman" and substituting "chairmen".

Sec. 89. G.S. 120-79(b) is amended by deleting the words "the chairman" and substituting "either chairman".

PART XIV.—SPECIAL PROVISIONS/NATURAL RESOURCES AND COMMUNITY DEVELOPMENT

LIMITATION ON PERSONNEL FOR AREAWIDE WASTEWATER TREATMENT MANAGEMENT PLANNING PROGRAM

Sec. 90. Budget Code 14300, Budget Purpose 1341, "Area-wide Wastewater Treatment Management Planning" Program, as it appears in Volume 1B of the 1981-83 recommended budget, pages N-53 and N-54, authorizes only the 33 personnel positions which were actually filled on January 29, 1981. No funds from any source shall be expended to fill any other employee position for this program.

TRANSFER OF COMMUNITY HOUSING SPECIALISTS

Sec. 91. The six housing specialist positions budgeted in fiscal year 1980-81 in the Division of Community Assistance, Department of Natural Resources and Community Development, are transferred to the Division of Community Housing and the Housing Finance Agency, Department of Natural Resources and Community Development. These six positions shall be funded from interest earnings on General Fund reserves available to the Housing Finance Agency or other receipts available to the Housing Finance Agency.

TRANSFER OF FUNDS TO THE WILDLIFE RESOURCES COMMISSION

Sec. 92. (a) Of the funds appropriated in Section 2 of this act to the Department of Natural Resources and Community Development in the 1981-82
fiscal year, the sum of one million dollars ($1,000,000) shall be transferred to the Wildlife Resources Commission on condition that:

(1) No new positions shall be established with this appropriation or with funds freed from other uses by this appropriation.

(2) None of this appropriation shall be used for subsidizing the cost of the Wildlife magazine or any newsletter or publication published by the Wildlife Resources Commission.

(3) None of this appropriation shall be used for fox population studies including monitoring the status and trends of foxes in North Carolina.

(b) Of the funds appropriated in Section 2 of this act to the Department of Natural Resources and Community Development in the 1982-83 fiscal year, the sum of one million dollars ($1,000,000) shall be transferred to a special reserve account for the Wildlife Resources Commission. These funds shall not be expended without specific authorization of the General Assembly by later enactment.

XV.—SPECIAL PROVISIONS/DEPARTMENT OF INSURANCE
—NONTRANSFER OF ENGINEERING POSITION FUNDS/DEPARTMENT OF INSURANCE

Sec. 93. Funds appropriated in Section 2 of this act to the Department of Insurance, Building and Construction Standards Administration Program, for engineering positions may not be transferred to any other line-item in the Department's budget.

—ACTUARIAL CONSULTANTS/DEPARTMENT OF INSURANCE

Sec. 94. G.S. 58-7.3 is amended by adding a new sentence at the end to read:

"If the Commissioner finds it necessary for the proper execution of the work of the Insurance Department to contract with persons, except to fill authorized employee positions, all those contracts shall be made pursuant to the provisions of Article 3C of Chapter 143 of the General Statutes regarding contracts to obtain consultant services."

PART XVI.—SPECIAL PROVISIONS/APPROPRIATIONS ACT
—EXECUTIVE BUDGET ACT REFERENCE

Sec. 95. The provisions of the Executive Budget Act, Chapter 143, Article 1, of the General Statutes, are reenacted and shall remain in full force and effect and are incorporated in this act by reference.

—EFFECT OF MOST LIMITATIONS AND DIRECTIONS IN TEXT/ONLY-1981-83

Sec. 96. Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 1981-83 biennium, the textual provisions of this act, except for the provisions of Section 16, shall apply only to funds appropriated for, and activities occurring during, the 1981-83 biennium. The provisions of Section 16 of this act shall have effect beyond the 1981-83 biennium.

—SEVERABILITY CLAUSE

Sec. 97. If any section or provision of this act is declared unconstitutional or invalid by the courts, it shall not affect the validity of the act as a whole or any part other than the part so declared to be unconstitutional or invalid.

—EFFECTIVE DATE
Sec. 98. All sections of this act except Sections 42.1 and Sections 77 through 83 shall become effective July 1, 1981. Section 42.1 is effective on and after July 1, 1980. Sections 77 through 83 shall become effective November 15, 1981.

In the General Assembly read three times and ratified, this the 8th day of July, 1981.

S. B. 30

CHAPTER 860

AN ACT TO MAKE APPROPRIATIONS TO PROVIDE CAPITAL IMPROVEMENTS FOR STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES.

The General Assembly of North Carolina enacts:

—TITLE/PURPOSES

Section 1. This act shall be known as "The Capital Improvement Appropriations Act of 1981".

Sec. 2. The appropriations made by the 1981 General Assembly for capital improvements are for constructing or renovating State buildings, utilities, and other capital facilities, for acquiring sites for them where necessary, and for acquiring buildings and land for State government purposes.

—PROCEDURES FOR DISBURSEMENTS

Sec. 3. The appropriations made by the 1981 General Assembly for capital improvements shall be disbursed for the purposes provided by this act. Expenditure of funds shall not be made by any State department, institution or agency, until an allotment has been approved by the Governor as Director of the Budget. The allotment shall be approved only after full compliance with the Executive Budget Act, Article I of Chapter 143 of the General Statutes. Prior to the award of construction contracts for projects to be financed in whole or in part with self-liquidating appropriations, the Director of the Budget and the Advisory Budget Commission shall approve the elements of the method of financing of those projects including the source of funds, interest rate, and liquidation period.

Where direct capital improvement appropriations are provided for the purpose of furnishing movable equipment for any project, those funds for equipment shall not be subject to transfer into construction accounts except as authorized by the Director of the Budget.

Capital Improvement projects authorized by the 1981 General Assembly shall be completed, including fixed and movable equipment and furnishings, within the limits of the amounts of the direct or self-liquidating appropriations provided, except as otherwise provided in the act.

—GENERAL FUND APPROPRIATIONS/SCHEDULE OF CAPITAL IMPROVEMENTS

Sec. 4. There is appropriated from the General Fund the sum of twenty-four million three hundred forty-eight thousand seven hundred twenty-seven dollars ($24,348,727) effective July 1, 1981, and sixty-two million three hundred forty-one thousand nine hundred thirty-six dollars ($62,341,936) effective July 1, 1982, for use by the State departments, institutions, and agencies to provide for capital improvement projects according to the following schedule:

<table>
<thead>
<tr>
<th>Capital Improvements—General Fund</th>
<th>1981-82</th>
<th>1982-83</th>
</tr>
</thead>
<tbody>
<tr>
<td>GENERAL ASSEMBLY (TOTAL)</td>
<td>1,000,000</td>
<td>-</td>
</tr>
<tr>
<td>SECTION</td>
<td>DESCRIPTION</td>
<td>AMOUNT</td>
</tr>
<tr>
<td>---------</td>
<td>-------------</td>
<td>----------</td>
</tr>
<tr>
<td>01.</td>
<td>Reserve for Renovations and Repairs</td>
<td>1,000,000</td>
</tr>
<tr>
<td>02.</td>
<td>Energy Retrofit-Government Center</td>
<td>220,000</td>
</tr>
<tr>
<td>03.</td>
<td>Asbestos Control Projects</td>
<td>250,000</td>
</tr>
<tr>
<td>04.</td>
<td>Architectural Barrier Removal-Government Center</td>
<td>125,000</td>
</tr>
<tr>
<td>05.</td>
<td>State Office Building Charlotte</td>
<td>4,100,000</td>
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<tr>
<td>06.</td>
<td>Renovations at the North Carolina School of Science and Math</td>
<td>2,350,000</td>
</tr>
<tr>
<td></td>
<td>Less Receipts</td>
<td>338,972</td>
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<td></td>
<td>General Fund</td>
<td>2,011,903</td>
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<td>01.</td>
<td>Development of Horse and Livestock Facility - Raleigh</td>
<td>2,500,000</td>
</tr>
<tr>
<td>02.</td>
<td>Development of Horse and Livestock Facility - Asheville</td>
<td>1,650,000</td>
</tr>
<tr>
<td>03.</td>
<td>Hampton Mariner's Museum-Beaufort</td>
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<tr>
<td>04.</td>
<td>Wholesale Fruit and Vegetable Building-Western Farmer's Market</td>
<td>15,000</td>
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<td>01.</td>
<td>Reserve for State Aid for Library Construction, Additions, and Renovation</td>
<td>1,000,000</td>
</tr>
<tr>
<td>01.</td>
<td>Renovation of Vocational Rehabilitation Building-Caswell Center</td>
<td>100,000</td>
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<tr>
<td>02.</td>
<td>Renovations to R&amp;S Wards and Air</td>
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### Session Laws—1981  
#### CHAPTER 860

<table>
<thead>
<tr>
<th>Project Description</th>
<th>Appropriation Amount</th>
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<tr>
<td>Conditioning to Center Building-Broughton Hospital</td>
<td>200,000</td>
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<tr>
<td>03. Renovations to B-3 Building-Murdoch Center</td>
<td>1,482,000</td>
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<td>04. Renovations to B-4 Building-Murdoch Center</td>
<td>-</td>
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<tr>
<td>05. Child and Youth Complex, Phase I-Murdoch Center</td>
<td>2,510,000</td>
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<td>06. Laurel Medical Facility - Movable Equipment</td>
<td>55,000</td>
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<tr>
<td><strong>DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT (TOTAL)</strong></td>
<td><strong>3,549,824</strong></td>
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<tr>
<td>01. Commercial Fisheries Aircraft Hangar-Morehead City</td>
<td>149,824</td>
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<tr>
<td>02. Reserve for Beach Restoration, Hurricane Flood Protection, Beach Erosion Control and Beach Access</td>
<td>3,400,000</td>
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<td><strong>GRAND TOTAL GENERAL FUND APPROPRIATION</strong></td>
<td><strong>$24,348,727</strong></td>
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<td></td>
<td><strong>$62,341,936</strong></td>
</tr>
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—ENCUMBERED APPROPRIATIONS AND PROJECT RESERVE FUND

Sec. 5. When each capital improvement project appropriated by the 1981 General Assembly, other than those projects under The University of North Carolina Board of Governors, is placed under construction contract, direct appropriations shall be encumbered to include all costs for construction, design, investigation, administration, movable equipment and a reasonable contingency. Unencumbered direct appropriations remaining in the project budget shall be placed in a project reserve fund credited to the Department of Administration. This project reserve fund shall be used, at the discretion of the Director of the Budget, solely to allow for award of contracts where bids exceed appropriated funds, if those projects supplemented were designed within the physical scope intended by the applicable appropriation or any authorized change in it, and if, in the opinion of the Director of the Budget, all means to award contracts within the appropriation were reasonably attempted. The project reserve fund shall not be used in connection with any projects under the Board of Governors of The University of North Carolina or the State Board of Community Colleges. At the discretion of the Director of the Budget any balances in the project reserve fund shall revert to the original source.

—UNIVERSITY OF NORTH CAROLINA BOARD OF GOVERNORS AND OTHER LUMP SUM APPROPRIATIONS

Sec. 6. There is appropriated in Section 4 of this act a lump sum to the Board of Governors of The University of North Carolina. Expenditure of funds in this appropriation shall be in accordance with the provisions of G.S. 116-11(9)a and G.S. 116-11(9)b, and of this act, except where specifically excluded. Other lump sums designated as reserves appropriated in Section 4 of this act shall be used for specific capital improvement projects in accordance with the priority needs of the respective agencies and as approved by the Director of the Budget and the Advisory Budget Commission. Any funds remaining in a project account following encumbrance of all construction and
equipment costs and reasonable contingency shall revert to the respective reserve.

—POSTPONEMENT OF PROJECTS

Sec. 7. Upon the request of a department, institution, or agency for which a capital improvement appropriation is made in this act, the Director of the Budget may postpone any capital improvement project as provided in this act upon finding that the project cannot be carried out as originally intended by the General Assembly.

—APPROPRIATION MODIFICATIONS

Sec. 8. The Director of the Budget may, when he considers it in the best interest of the State to do so, and upon the request of the pertinent department, agency or institution, authorize an increase or decrease in size and scope of a direct or self-liquidating capital appropriation. Changes to a project established under this act or by acts of the 1981 General Assembly may come from gifts, federal or private grants, from excess patient receipts collected above those budgeted by the North Carolina Memorial Hospital, from special fund receipts, or, from the funds appropriated for capital improvements by the 1981 General Assembly to that department, agency or institution. The Director of the Budget is authorized to increase from the sources of funds referred to in this section the cost of a project established by the 1981 General Assembly, but solely to allow for award of contracts where bids exceed appropriated funds, and on condition that the projects supplemented were designed within the size and physical scope intended by the applicable appropriation or any authorized changes in it, and, in the opinion of the Director of the Budget all means to award contracts within the appropriation were reasonably attempted.

—GOVERNOR AND ADVISORY BUDGET COMMISSION/NEW PROJECT

Sec. 9. The Director of the Budget and the Advisory Budget Commission may, when in their opinion it is in the best interest of the State to do so, and upon the request of a department, institution or agency, authorize the construction of a capital improvement project not specifically provided for or authorized by the General Assembly. Funds which become available by gifts, excess patient receipts collected above those budgeted by the North Carolina Memorial Hospital, federal or private grants, or receipts becoming a part of special funds by act of the General Assembly may be used for this purpose. No funds appropriated under this act for a specific capital improvement shall be used or expended for any capital improvement not specifically provided for or authorized by the General Assembly.

—ADVANCE PLANNING OF CAPITAL IMPROVEMENT PROJECTS

Sec. 10. Funds which become available by gifts, excess patient receipts collected above those budgeted by the North Carolina Memorial Hospital, federal or private grants, or receipts becoming a part of special funds by act of the General Assembly may be utilized for advance planning through the working drawing phase of capital improvement projects upon approval of the Director of the Budget. The Director of the Budget may make allocations from the Advance Planning Revolving Fund for advance planning through the working drawing phase of capital improvement projects, except that this revolving fund shall not be utilized by the Board of Governors of The University of North Carolina or the State Board of Community Colleges.
—AID TO PUBLIC LIBRARIES/CONSTRUCTION, ADDITIONS AND RENOVATIONS

Sec. 11. Funds are appropriated in Section 4 of this act in the amount of one million dollars ($1,000,000) for a Reserve for State Aid for Library Construction, Additions and Renovations. Up to one hundred thousand dollars ($100,000) per library shall be available to local public libraries on an equal matching basis, subject to the approval of the Governor and the Advisory Budget Commission upon recommendation of the Department of Cultural Resources.

—GENERAL ASSEMBLY/REPAIRS AND RENOVATIONS

Sec. 11.1. Funds are appropriated to the General Assembly, effective July 1, 1981, in Section 4 of this act in the amount of one million dollars ($1,000,000) for a Reserve for Repairs and Renovations. Notwithstanding any other provisions of law, the Legislative Services Commission may expend these funds as it deems appropriate.

—DEPARTMENT OF ADMINISTRATION/CHARLOTTE OFFICE BUILDING

Sec. 11.2. Funds appropriated in Section 4 of this act to the Department of Administration, effective July 1, 1981, for the acquisition and renovation of a State office building in Charlotte are contingent on agreement by the City of Charlotte to make available to the State adjacent property which the city owns for parking, or to lease such property to the State at one dollar ($1.00) per year on a long-term lease basis.

—DEPARTMENT OF AGRICULTURE/ASHEVILLE HORSE SHOW FACILITY

Sec. 11.3. Funds are appropriated in Section 4 of this act to the Department of Agriculture, effective July 1, 1981, for development of a horse show facility at Asheville. The facility shall be built on land presently owned or controlled by the Department of Agriculture.

—DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT/BEACH EROSION FUNDS

Sec. 11.4. Funds are appropriated in Section 4 of this act to the Department of Natural Resources and Community Development, effective July 1, 1981, for the purpose of funding a beach access program to assure acquisition, construction and maintenance of a system of pedestrian public access to public ocean beaches in areas where nearby public roads make pedestrian access feasible. The program should be carried out in cooperation with local governments where possible. The program should be designed to provide and maintain within the limitations of the resources available to the Department reasonable public access and necessary parking to all areas of the North Carolina coast where public roads are in close proximity to the ocean beaches and where reasonable access is not already available as of June 30, 1981. These funds may be used to meet matching requirements for federal or other funds. The Department of Natural Resources and Community Development shall make every effort to obtain funds from sources other than the General Fund for these purposes. Funds provided in this act may be used to acquire or develop land for pedestrian access including parking or to make grants to local governments to accomplish the purposes of this section. Land purchased or developed may be conveyed, without charge, to the county or municipality in which the property is located, subject to the requirement that the local
government utilize and maintain the property for public pedestrian access to the public ocean beach.

—WATER TOWER, JOHN UMSTEAD HOSPITAL

Sec. 11.5. The Director of the Budget may use any funds appropriated by the 1977 General Assembly for Sewage System Improvements, John Umstead Hospital, which are not obligated on June 30, 1981, for a new project—Water Tower.

—SCIENCE AND TECHNOLOGY CENTER/FUNDS REVERSION

Sec. 11.6. The unencumbered balance on June 30, 1981, of funds for capital improvement projects at the Science and Technology Research Center in the Department of Commerce shall revert to the General Fund.

—TERMINATION OF DESIGN CONTRACTS

Sec. 12. A new sentence is added to G.S. 143-31.1 to read: "The Director of the Budget may, when he considers it in the best interest of the State to do so, terminate design contracts when it is documented that the designer has failed to perform the conditions enumerated in the contract."

—FORCE ACCOUNT CONSTRUCTION

Sec. 13. G.S. 143-135 is amended in the second sentence by deleting the phrase "and the Advisory Budget Commission".

—APPROPRIATIONS LIMITS/REVERSION OR LAPSE

Sec. 14. Subject to any transfers and changes between appropriations as permitted in previous sections of this act, the appropriations for capital improvements made by the 1981 General Assembly shall be expended only for specific projects set out by the 1981 General Assembly. Construction of all capital improvement projects enumerated by the 1981 General Assembly shall be commenced or self-liquidating indebtedness with respect to them shall be incurred within 12 months following the first day of the fiscal year in which the funds are available. If construction contracts on those projects have not been awarded or self-liquidating indebtedness has not been incurred within that period, the direct appropriation for those projects shall revert to the original source, and the self-liquidating appropriation shall lapse; except that direct appropriations may be placed in the project reserve fund. This deadline with respect to both direct and self-liquidating appropriations may be extended up to an additional 12 months with the approval of the Director of the Budget and the Advisory Budget Commission when, in their discretion, existing circumstances and conditions warrant such extension.

—EFFECTIVE DATE

Sec. 15. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 8th day of July, 1981.
S. B. 721  

CHAPTER 861  
AN ACT CONCERNING THE BRIDGE REPLACEMENT PROGRAM.  

The General Assembly of North Carolina enacts:  

Section 1. G.S. 136-76.1(a) is amended by adding the following proviso at the end:  

"Provided, that the provisions of this subsection shall not apply to any bridge which has not been removed and replaced by June 30, 1980; these bridges shall continue to be included in the State Highway System, and shall be examined, repaired if necessary, updated and put into usable condition with weight limitations as safety may require."  

Sec. 2. This act is effective upon ratification.  

In the General Assembly read three times and ratified, this the 8th day of July, 1981.  

H. B. 118  

CHAPTER 862  
AN ACT TO REQUIRE THE REPORTING OF COMPLETE AND ACCURATE CRIMINAL HISTORIES TO THE STATE BUREAU OF INVESTIGATION.  

The General Assembly of North Carolina enacts:  

Section 1. Chapter 15A of the General Statutes is hereby amended by inserting a new Article 86, to read as follows:  

"ARTICLE 86.  
Reports of Dispositions of Criminal Cases.  

§15A-1381. Definition of disposition.—As used in this Article, the term ‘disposition’ means any action which results in termination or indeterminate suspension of the prosecution of a criminal charge. A disposition may be any one of the following actions:  

(1) A finding of no probable cause pursuant to G.S. 15A-511(c)(2);  
(2) An order of dismissal pursuant to G.S. 15A-604;  
(3) A finding of no probable cause pursuant to G.S. 15A-612(3);  
(4) A return of not a true bill pursuant to G.S. 15A-629;  
(5) Dismissal of a charge pursuant to G.S. 15A-703;  
(6) Dismissal pursuant to G.S. 15A-931 or 15A-932;  
(7) Dismissal pursuant to G.S. 15A-954, 15A-955 or 15A-959;  
(8) Finding of a defendant’s incapacity to proceed pursuant to G.S. 15A-1002 or dismissal of charges pursuant to G.S. 15A-1008;  
(9) Entry of a plea of guilty or no contest pursuant to G.S. 15A-1011, without regard to the sentence imposed upon the plea, and even though prayer for judgment on the plea be continued;  
(10) Dismissal pursuant to G.S. 15A-1227;  
(11) Return of verdict pursuant to G.S. 15A-1237, without regard to the sentence imposed upon such verdict and even though prayer for judgment on such verdict be continued.  

§15A-1382. Reports of disposition; fingerprints.—(a) When the defendant is fingerprinted pursuant to G.S. 15A-502 prior to the disposition of the case, a report of the disposition of the charges shall be made to the State Bureau of Investigation.  

1299
CHAPTER 862    Session Laws—1981

Investigation on a form supplied by the State Bureau of Investigation within 60 days following disposition.

(b) When a defendant is found guilty of any felony, regardless of the class of felony, a report of the disposition of the charges shall be made to the State Bureau of Investigation on a form supplied by the State Bureau of Investigation within 60 days following disposition. If a convicted felon was not fingerprinted pursuant to G.S. 15A-502 prior to the disposition of the case, his fingerprints shall be taken and submitted to the State Bureau of Investigation along with the report of the disposition of the charges on forms supplied by the State Bureau of Investigation.

"§ 15-1383. Plans for implementation of Article.—(a) On the effective date of this Article the senior resident superior court judge of each judicial district shall file a plan with the Director of the State Bureau of Investigation for the implementation of the provisions of this Article. The plan shall be entered as an order of the court on that date. In drawing up the plan, the senior resident superior court judge may consult with the chief district judge, the district attorney, the clerks of superior court within the district, the Department of Correction, the sheriffs and chiefs of police within the district and other persons as he may deem appropriate. Upon the request of the senior resident superior court judge, the State Bureau of Investigation shall provide such technical assistance in the preparation of the plan as the judge desires.

(b) A person who is charged by the plan with a duty to make reports who fails to make such reports as required by the plan is punishable for civil contempt under Article 2 of Chapter 5A of the General Statutes.

(c) When the senior resident superior court judge modifies, alters or amends a plan under this Article, the order making such modification, alteration or amendment shall be filed with the Director of the State Bureau of Investigation within 10 days of its entry.

(d) Plans prepared under this Article are not 'rules' within the meaning of Chapter 150A of the General Statutes or within the meaning of Article 6C of Chapter 120 of the General Statutes."

Sec. 2. Chapter 7A of the General Statutes is hereby amended by adding thereto a new section 7A-608.1 to read:

"§ 7A-608.1. Fingerprinting juvenile transferred to superior court.—When jurisdiction over a juvenile is transferred to the superior court, the juvenile shall be fingerprinted and his fingerprints shall be sent to the State Bureau of Investigation."

Sec. 3. G.S. 15A-502(a) is amended by adding at the end of that subsection the following new sentence:

"It shall be the duty of the arresting law enforcement agency to cause a person charged with the commission of a felony to be fingerprinted and to forward those fingerprints to the State Bureau of Investigation."

Sec. 4. Nothing herein contained shall be construed to obligate the General Assembly to appropriate additional funds to implement the provisions of this act.

Sec. 5. This act shall become effective on January 1, 1982.

In the General Assembly read three times and ratified, this the 8th day of July, 1981.

1300
H. B. 542  

CHAPTER 863  

AN ACT TO REQUIRE PERSONS HUNTING ON THE LAND OF ANOTHER TO HAVE PERMISSION OF THE LANDOWNER IN GATES COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It is unlawful to hunt with, or to possess firearms, bows and arrows, or dogs, on the lands of another without having permission of the owner or lessee of the land. If the land is owned or leased by a club, the president of the club shall issue the permission to hunt.

Sec. 2. All lawful peace officers of the county and State who are authorized to enforce the hunting laws are authorized to enforce this act.

Sec. 3. Violation of this act is a misdemeanor punishable by a fine not to exceed fifty dollars ($50.00) or imprisonment for a period not to exceed 30 days, or both in the discretion of the court.

Sec. 4. This act applies to Gates County.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of July, 1981.

H. B. 669  

CHAPTER 864  

AN ACT TO ALLOW HOUSING AUTHORITY TENANTS TO SERVE AS AUTHORITY COMMISSIONERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 157-5 is amended by adding a sentence following the second sentence to read:

"Notwithstanding G.S. 157-7, G.S. 14-234, or any other provision of law, no person shall be barred from serving as a commissioner of any housing authority created under this Chapter because such person is a tenant of the authority or a recipient of housing assistance through any program operated by the authority; provided, that no such commissioner shall be qualified to vote on matters affecting his official conduct or matters affecting his own individual tenancy, as distinguished from matters affecting tenants in general; and further provided, that no more than one-third of the members of any housing authority commission shall be tenants of the authority or recipients of housing assistance through any program operated by the authority. Avery, Beaufort, Bertie, Burke, Caldwell, Camden, Cherokee, Chowan, Clay, Cleveland, Currituck, Dare, Duplin, Edgecombe, Franklin, Gates, Graham, Halifax, Haywood, Henderson, Hertford, Hoke, Hyde, Jackson, Jones, Lenoir, Macon, Martin, Nash, Northampton, Onslow, Pasquotank, Perquimans, Pitt, Polk, Robeson, Rowan, Swain, Transylvania, Tyrrell, Vance, Warren, Washington, Watauga, Wilkes, Wilson and Yadkin Counties are exempted from any provision of law allowing a person who is a tenant of the authority to serve as a commissioner of a housing authority."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of July, 1981.
CHAPTER 865      Session Laws—1981

H. B. 934      CHAPTER 865
AN ACT TO AMEND CHAPTER 160A OF THE GENERAL STATUTES TO
AUTHORIZE MUNICIPALITIES TO PARTICIPATE IN THE URBAN
DEVELOPMENT ACTION GRANT PROGRAM.

The General Assembly of North Carolina enacts:

Section 1. Chapter 160A of the General Statutes is amended by adding

a new section to read:

"§ 160A-457.1. Urban Development Action Grants.—In addition to the
powers granted by G.S. 160A-456 and G.S. 160A-457, any city is authorized,
either as a part of a community development program or independently thereof,
to enter into contracts or agreements with any person, association, or
corporation to undertake and carry out specified activities in furtherance of the
purposes of Urban Development Action Grants authorized by the Housing and
Community Development Act of 1977 (P.L. 95-128) or any amendment thereto
which is a continuation of such grant programs by whatever designation,
including the authority to enter into and carry out contracts or agreements to
extend loans, loan subsidies, or grants to persons, associations, or corporations
and to dispose of real or personal property by private sale in furtherance of such
contracts or agreements."

Sec. 2. Any enabling legislation contained in local acts which refers to
"Urban Development Action Grants" or the Housing and Community
Development Act of 1977 (P.L. 95-128) shall be construed also to refer to any
continuation of such grant programs by whatever designation.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of
July, 1981.

H. B. 1254      CHAPTER 866
AN ACT TO AMEND THE LAWS GOVERNING SCHOOL
ADMINISTRATIVE UNIT BANK DEPOSITS WITH RESPECT TO
SECURITY OF PUBLIC DEPOSITS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-444(a) as enacted by Chapter 423 of the 1981
Session Laws, is amended by adding at the end of the subsection:

"; however, monies belonging to an administrative unit or an individual
school may be deposited in official depositories in Negotiable Order of
Withdrawal (NOW) accounts."

Sec. 2. G.S. 115C-444(b), as it appears in Chapter 423 of the 1981 Session
Laws, is amended by deleting the word "fully" after the words "shall be" in the
first sentence and by deleting the words and punctuation "such amounts," in
the same sentence and replacing them with the words and punctuation "a
sufficient amount to protect the administrative unit or an individual school on
account of deposit of moneys made therein,"

Sec. 3. G.S. 115C-446, as it appears in Chapter 423 of the 1981 Session
Laws, is amended in the first sentence by changing the comma after the word
"therein" to a period and deleting the words and punctuation "and a description
of the surety bonds or investment securities securing demand and time
deposits." A new sentence should then be added after the word "therein" as
follows: “In like manner, each bank or trust company acting as the official depository of any administrative unit or individual school may be required to report to the Secretary a description of the surety bonds or investment securities securing such public deposits.”

Sec. 4. This act shall become effective upon ratification.
In the General Assembly read three times and ratified, this the 8th day of July, 1981.

H. B. 1286 CHAPTER 867

AN ACT AMENDING THE HEALTH CARE FACILITIES FINANCE ACT (CHAPTER 131A OF THE GENERAL STATUTES OF NORTH CAROLINA, AS AMENDED) TO PERMIT THE FINANCING OF FACILITIES FOR THE CONTINUING CARE OF THE ELDERLY AND INFIRM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 131A-3 as amended by Chapter 64, Session Laws of 1981, is further amended by rewriting paragraph (4) thereof to read:

“Health care facilities’ means any one or more buildings, structures, additions, extensions, improvements or other facilities, whether or not located on the same site or sites, machinery, equipment, furnishings or other real or personal property suitable for health care or medical care; and includes, without limitation: general hospitals, chronic diseases, maternity, mental, tuberculosis and other specialized hospitals; facilities for intensive care and self-care; nursing homes, including skilled nursing facilities and intermediate care facilities; facilities for continuing care of the elderly and infirm; clinics and outpatient facilities; clinical, pathological and other laboratories; health care research facilities; laundries; training facilities for nurses, interns, physicians and other staff members; food preparation and food service facilities; administration buildings, central service and other administrative facilities; communication, computer; and other electronic facilities, fire-fighting facilities, pharmaceutical facilities and recreational facilities; storage space, X-ray, laser, radiotherapy and other apparatus and equipment; dispensaries; utilities; vehicular parking lots and garages; office facilities for health care facilities staff members and physicians; and such other health care facilities customarily under the jurisdiction of or provided by hospitals, or any combination of the foregoing, with all necessary, convenient or related interests in land, machinery, apparatus, appliances, equipment, furnishings, appurtenances, site preparation, landscaping and physical amenities.”

Sec. 2. G.S. 131A-3 is hereby further amended by deleting the word “and” at the end of paragraph (8) thereof, by changing the period at the end of paragraph (9) thereof to a semicolon and by adding thereto three new paragraphs to read:

“(10) ‘Continuing care’ means the furnishing, pursuant to a continuing care agreement, of shelter, food, and nursing care to an individual not related by consanguinity or affinity to the provider furnishing such care. Other personal services provided shall be designated in the continuing care agreement. Continuing care shall include only life care, care for life, or care for a term of years;
(11) 'Life care' or 'care for life' means a life lease, life membership, life estate, or similar agreement between an individual and a provider by which the individual pays a fee for the right to occupy a space in the continuing care facility and to receive continuing care for life; and

(12) 'Care for a term of years' means an agreement between an individual and a provider whereby the individual pays a fee for the right to occupy space in a continuing care facility, and to receive continuing care, for at least one year, but for less than the life of the member."

Sec. 3. This act, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect the purposes thereof.

Sec. 4. Insofar as the provisions of this act are inconsistent with the provisions of any general or special laws, or parts thereof, the provisions of this act shall be controlling.

Sec. 5. The provisions of this act are severable and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions of this act or of Chapter 131A, as amended, of the General Statutes of North Carolina.

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of July, 1981.

H. B. 1374  CHAPTER 868

AN ACT TO AUTHORIZE THE REDEVELOPMENT COMMISSION OF THE CITY OF KINSTON TO PERMIT DISPOSITION OF LAND FOR A SPECIAL PURPOSE AT FAIR MARKET VALUE WITHOUT COMPETITIVE BIDDING; TO PERMIT DISPOSITION OF LAND ON THE BASIS OTHER THAN THE HIGHEST MONETARY BID, WHERE SUCH DISPOSITION IS FOUND TO SERVE THE BEST INTEREST OF THE MUNICIPALITY, AND TO DISPOSE OF PROPERTY AT PRIVATE SALE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-514(d) is amended by adding the following new language at the end:

"The commission may also sell real property of a value of less than one thousand dollars ($1,000) at such price as it determines fair, at private sale without advertisement and bids, if such property is a parcel of land which is of less than standard width under the city zoning ordinance."

Sec. 2. Section 5 of Chapter 1321, Session Laws of 1979, (Second Session 1980) is amended by adding immediately after the words, "City of Wilmington", the words, "and the City of Kinston".

Sec. 3. This act applies only to the City of Kinston.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of July, 1981.

1304
AN ACT TO AUTHORIZE ADDITIONAL VOLUNTARY PAYROLL DEDUCTIONS IN ORDER TO ENHANCE MEMBERSHIP IN THE INDEPENDENT EMPLOYEE ASSOCIATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 147-62 is amended by changing the final "period" to a "colon" and adding new sentences to read as follows:

"Provided further, that any employee of the State or of any of its institutions, departments, bureaus, agencies or commissions, who is a member of a domiciled State employees' association with a membership of not less than 5,000 members may authorize in writing the periodic deduction from his salary or wages a designated sum to be paid to the employees' association. This plan of payroll deductions for State employees and other association members shall become null and void at such time as the employee association engages in collective bargaining. Nothing in this last proviso shall apply to local boards of education, county or municipal governments or any local governmental units."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of July, 1981.

AN ACT TO LIMIT THE ANNUAL INCREASE IN THE NUMBER OF STATE EMPLOYEES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 143 of the General Statutes is amended by adding a new Article 2 to read:

"ARTICLE 2.

"§ 143-35. Limit on number of State employees.—The total number of State employees shall not be increased in any fiscal year by a greater percentage than the percentage rate of population growth for the State of North Carolina. The percentage rate of population growth shall be computed by the Department of Administration by averaging the rate of population growth in each of the preceding 10 fiscal years as stated in the annual estimates of population in North Carolina made by the United States Census Bureau. For purposes of this section, the term 'State employee' shall include each person paid wholly or partially from funds appropriated by the General Assembly and each person employed by a department, institution or other agency of the State, regardless of the source of funding for the position.

'State Employees' as used in this bill shall not include any person employed by any group, association, society or other organization which receives less than fifty percent (50%) of the funds from the State of North Carolina.'"

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of July, 1981.
CHAPTER 871

S. B. 703

AN ACT TO AMEND THE MEMBERSHIP OF THE NORTH CAROLINA COUNCIL FOR THE HEARING IMPAIRED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-214(a) is hereby amended by deleting the phrase "the President of the North Carolina Parents Association of the Deaf, or his designee;" and by inserting in lieu thereof the phrase "one member who is a parent of a hearing impaired child enrolled in an educational program in North Carolina to be appointed by the Governor;".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of July, 1981.

S. B. 752

AN ACT TO AMEND THE FEES OF NOTARIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 10-8 is amended by designating the existing paragraph as subsection (a) and adding a new subsection (b) to read as follows:

"(b) Notwithstanding the above schedule, notary fees for acknowledging signatures on documents required by the Division of Motor Vehicles shall be in accordance with the schedule of fees set forth in G.S. 20-42(a)."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of July, 1981.

H. B. 1273

AN ACT TO AMEND G.S. 113-189 RELATING TO THE PROTECTION OF SEA TURTLES.

Whereas, sea turtles are classified as endangered or threatened species and are fully protected by Federal laws and North Carolina Wildlife Resources Commission regulations, but may be taken under current State law from October through April without restriction; and

Whereas, it is necessary to provide for uniform law enforcement in State and in Federal courts; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Subsection (a) of G.S. 113-189 is amended to read as follows:

"(a) It is unlawful to willfully take, disturb or destroy any sea turtles including green, hawksbill, loggerhead, and leatherback turtles, or their nests or eggs."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of July, 1981.
H. B. 1361    CHAPTER 874
AN ACT TO AUTHORIZE THE TOWN OF ATKINSON TO CONVEY CERTAIN REAL PROPERTY BY PRIVATE SALE.

The General Assembly of North Carolina enacts:

Section 1. The Town of Atkinson is hereby authorized to convey by private sale, with or without consideration, all or part of that certain parcel of land owned by the Town which is bounded by Church Street on the North, a Seaboard Coastline Railroad easement on the East, and by property owned by Black River Health Services, Inc., on the South and West.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of July, 1981.

H. B. 1367    CHAPTER 875
AN ACT TO EXTEND THE EXPIRATION DATE OF THE FAIR ACCESS INSURANCE PLAN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-173.27 is hereby amended to read as follows:
"This Article shall expire on December 31, 1983, except that rights and obligations incurred by the association and its members to be established pursuant to the provisions of this Chapter shall not be impaired by the expiration of this Article, and such association shall be continued for the purpose of performing such obligations. If the Urban Property Protection and Reimbursement Act of 1968 expires at any time prior to December 31, 1983, this Article shall remain in full force and effect until said date."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of July, 1981.

H. B. 1368    CHAPTER 876
AN ACT TO CORRECT A TECHNICAL ERROR IN CHAPTER 759 OF THE 1981 SESSION LAWS.

The General Assembly of North Carolina enacts:

Section 1. Section 10 of Chapter 759 of the 1981 Session Laws is amended in the first sentence by inserting between the words, "refunded" and "thereafter" the following:
"during the first 60 days of the policy and equal to the sum of the digits formula known as the 'Rule of 78' if refunded".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of July, 1981.
H. B. 1378  CHAPTER 877
AN ACT TO ALLOW THE HYDE COUNTY BOARD OF EDUCATION TO CONVEY ITS INTEREST IN A CERTAIN TRACT OF LAND TO THE SCRANTON VOLUNTEER FIRE DEPARTMENT.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding G.S. 115C-518, the Hyde County Board of Education may convey at private sale, with or without monetary consideration, to the Scranton Volunteer Fire Department, Inc., any or all of its interest to not more than one acre of the tract of land described in Chapter 339, Session Laws of 1975.

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 8th day of July, 1981.

H. B. 1262  CHAPTER 878
AN ACT TO AMEND CHAPTER 160A OF THE GENERAL STATUTES TO ALLOW POLICE AND SHERIFFS TO ASSIST STATE LAW ENFORCEMENT AGENCIES.

The General Assembly of North Carolina enacts:

Section 1. Article 13 of Chapter 160A of the General Statutes is amended by adding a new Section 160A-288.1 to read as follows:

"§ 160A-288.1. Assistance to State Law Enforcement Agencies.—(a) In accordance with rules, policies, or guidelines officially adopted by the governing body of the city or county by which he is employed, and subject to any conditions or restrictions included therein, the head of any local law enforcement agency may temporarily provide assistance to a State law enforcement agency in enforcing the laws of North Carolina if so requested in writing by the head of the State agency. The assistance may comprise allowing officers of the local agency to work temporarily with officers of the State agency (including in an undercover capacity) and lending equipment and supplies. While working with the State agency under the authority of this section, an officer shall have the same jurisdiction, powers, rights, privileges and immunities (including those relating to the defense of civil actions and the payment of judgments) as the officers of the State agency in addition to those he normally possesses. While on duty with the State agency, he shall be subject to the lawful operational commands of his superior officers in the State agency, but he shall for personnel and administrative purposes, remain under the control of the local agency, including for purposes of pay. He shall furthermore be entitled to workmen's compensation and the same benefits when acting pursuant to this section to the same extent as though he were functioning within the normal scope of his duties.

(b) As used in this section:
1. ‘Head’ means any director or chief officer of any State or local law enforcement agency including the chief of police of a local department, chief of police of a county police department, and the sheriff of a county, or an officer of the agency to whom the head of that agency has delegated authority to make or grant requests under this section, but
only one officer in the agency shall have this delegated authority at any
time.
2. ‘Local law enforcement agency’ means any municipal police department,
a county police department, or a sheriff’s department.
3. ‘State law enforcement agency’ means any State agency, force,
department, or unit responsible for enforcing criminal laws.
(c) This section in no way reduces the jurisdiction or authority of State law
enforcement officers.”
Sec. 2. This act shall become effective upon ratification.
In the General Assembly read three times and ratified, this the 8th day of
July, 1981.

H. B. 1337  CHAPTER 879
AN ACT TO BRING THE DARE COUNTY BOARD OF COMMISSIONERS
UNDER THE SECOND PRIMARY LAW.

The General Assembly of North Carolina enacts:
Section 1. Section 5 of Chapter 562, Session Laws of 1965 is rewritten
to read:
“Sec. 5. Members shall reside in the districts, but the qualified voters of the
entire county shall nominate all candidates for and elect all members of the
board.”
Sec. 2. Section 6 of Chapter 562, Session Laws of 1965 is amended by
adding immediately before the word “election”, the words “primary and”.
Sec. 3. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 8th day of
July, 1981.

S. B. 543  CHAPTER 880
AN ACT REGARDING FIREARMS AND EXPLOSIVES AT CIVIL
DISORDERS.

The General Assembly of North Carolina enacts:
Section 1. A new section is added to Article 36A of Chapter 14 of the
General Statutes to read:
“§ 14-288.20. Certain weapons at civil disorders.—(a) The definitions in G.S.
14-288.1 do not apply to this section. As used in this section:
(1) The term ‘civil disorder’ means any public disturbance involving acts of
violence by assemblages of three or more persons, which causes an
immediate danger of damage or injury to the property or person of any
other individual or results in damage or injury to the property or person
of any other individual.
(2) The term ‘firearm’ means any weapon which is designed to or may
readily be converted to expel any projectile by the action of an
explosive; or the frame or receiver of such a weapon.
(3) The term ‘explosive or incendiary device’ means (a) dynamite and all
other forms of high explosives, (b) any explosive bomb, grenade, missile,
or similar device, and (c) any incendiary bomb or grenade, fire bomb, or
similar device, including any device which (i) consists of or includes a
breakable container including a flammable liquid or compound, and a

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wick composed of any material which, when ignited, is capable of
igniting that flammable liquid or compound, and (ii) can be carried or
thrown by one individual acting alone.

(4) The term 'law enforcement officer' means any officer of the United
States, any state, any political subdivision of a state, or the District of
Columbia charged with the execution of the laws thereof; civil officers
of the United States; officers and soldiers of the organized militia and
state guard of any state or territory of the United States, the
Commonwealth of Puerto Rico, or the District of Columbia; and
members of the armed forces of the United States.

(b) A person is guilty of a felony punishable by a fine of not more than ten
thousand dollars ($10,000), imprisonment for not more than five years, or both,
if he:

(1) Teaches or demonstrates to any other person the use, application, or
making of any firearm, explosive or incendiary device, or technique
capable of causing injury or death to persons, knowing or having reason
to know or intending that the same will be unlawfully employed for use
in, or in furtherance of, a civil disorder; or

(2) Assembles with one or more persons for the purpose of training with,
practicing with, or being instructed in the use of any firearm, explosive
or incendiary device, or technique capable of causing injury or death to
persons, intending to employ unlawfully the training, practicing,
instruction, or technique for use in, or in furtherance of, a civil disorder.

(c) Nothing contained in this section shall make unlawful any act of any law
enforcement officer which is performed in the lawful performance of his official
duties."

Sec. 2. Chapter 1316 of the 1979 Session Laws is amended by adding a
new section thereto to read:

"Sec. 17.1. G.S. 14-288.20(b) is amended by deleting the phrase 'felony
punishable by a fine of not more than ten thousand dollars ($10,000),
imprisonment for not more than 5 years, or both' and substituting the phrase
'Class I felony'."

Sec. 3. This act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 8th day of
July, 1981.

H. B. 364    CHAPTER 881
AN ACT TO ABOLISH THE INACTIVE LAND POLICY COUNCIL AND
ADVISORY COMMITTEE ON LAND POLICY.

The General Assembly of North Carolina enacts:

Section 1. The Land Policy Council, as established by G.S. 113A-153, is
hereby abolished.

Sec. 2. The Advisory Committee on Land Policy, as established by G.S.
113A-154, is hereby abolished.

Sec. 3. G.S. 113A-153 (a) and (b), G.S. 113A-154 and G.S. 113A-157, are
hereby repealed.

Sec. 4. G.S. 143B-279 is amended by adding the word "and" at the end of
subdivision (20) and deleting the words and figures "'(21) The North Carolina
Land Policy Council, and".

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Sec. 5. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 8th day of
July, 1981.

H. B. 484

CHAPTER 882

AN ACT TO PRESERVE AT DEATH, PROPERTY RIGHTS ACQUIRED
BY MARRIED PERSONS WHILE THEY RESIDED IN COMMUNITY
PROPERTY STATES AS RECOMMENDED BY THE GENERAL
STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. The General Statutes of North Carolina are hereby amended
by adding a new Chapter thereto as follows:

"CHAPTER 31C.

"Uniform Disposition of Community Property Rights at Death Act.

"§ 31C-1. Application.—This act applies to the disposition at death of the
following property acquired by a married person:
(1) all personal property, wherever situated:
   (i) which was acquired as or became, and remained, community property
      under the laws of another jurisdiction; or
   (ii) all or the proportionate part of that property acquired with the rents,
      issues, or income of, or the proceeds from, or in exchange for, that
      community property; or
   (iii) traceable to that community property;
(2) all or the proportionate part of any real property situated in this State
    which was acquired with the rents, issues or income of, the proceeds from, or in
    exchange for, property acquired as or which became, and remained, community
    property under the laws of another jurisdiction, or property traceable to that
    community property.

"§ 31C-2. Rebuttable presumptions.—In determining whether this act applies
to specific property the following rebuttable presumptions apply:
(1) property acquired during marriage by a spouse of that marriage while
domiciled in a jurisdiction under whose laws property could then be acquired as
community property is presumed to have been acquired as or to have become,
and remained, property to which this act applies; and
(2) real property situated in this State and personal property wherever
situated, acquired by a married person while domiciled in a jurisdiction under
whose laws property could not then be acquired as community property, title to
which was taken in a form which created rights of survivorship, is presumed
not to be property to which this act applies.

"§ 31C-3. Disposition upon death.—Upon death of a married person, one-half
of the property to which this act applies is the property of the surviving spouse
and is not subject to testamentary disposition by the decedent or distribution
under the laws of succession of this State. One-half of that property is the
property of the decedent and is subject to testamentary disposition or
distribution under the laws of succession of this State. With respect to property
to which this act applies, the one-half of the property of the decedent is not
subject to the surviving spouse's right to dissent from the will under the
provisions of Article 1 of Chapter 30, and is not subject to the right to elect a
life estate under the provisions of Article 8 of Chapter 29.

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“§ 31C-4. Perfection of title of surviving spouse.—If the title to any property to which this act applies was held by the decedent at the time of death, or by a trustee of a revocable inter vivos trust created by the decedent, title of the surviving spouse may be perfected by an order of the clerk of superior court who appointed the decedent’s personal representative or by execution of an instrument by the personal representative or the heirs or devisees of the decedent with the approval of the said clerk. Neither the personal representative nor the court in which the decedent’s estate is being administered has a duty to discover or attempt to discover whether property held by the decedent is property to which this act applies, unless a written demand is made by the surviving spouse or the spouse’s successor in interest.

“§ 31C-5. Perfection of title of personal representative, heir or devisee.—If the title to any property to which this act applies is held by the surviving spouse at the time of the decedent’s death, the personal representative or an heir or devisee of the decedent may institute an action to perfect title to the property. The personal representative has no fiduciary duty to discover or attempt to discover whether any property held by the surviving spouse is property to which this act applies, unless a written demand is made by an heir, devisee, or creditor of the decedent.

“§ 31C-6. Written demand.—(a) Written demand in this Chapter shall be made by a surviving spouse, the spouse’s successor in interest, or the decedent’s heirs or devisees not later than six months after the decedent’s will has been admitted to probate, or not later than six months after the appointment of an administrator if there is no will, or not later than six months after the decedent’s death if the property to which this Article applies is held in an inter vivos trust created by the decedent; and written demand by a creditor of the decedent shall be made within the period for presentation of a claim against the decedent’s estate as set out in Article 19 of Chapter 28A.

(b) Written demand in this Chapter shall be delivered in person or by registered mail to the personal representative. As used in this Chapter, the personal representative may also mean the trustee of an inter vivos trust created by the decedent who has legal title to, or possession of, the property to which this Article applies.

“§ 31C-7. Purchaser for value or lender.—(a) If a surviving spouse has apparent title to property to which this act applies, a purchaser for value or a lender taking a security interest in the property takes his interest in the property free of any rights of the personal representative or an heir or devisee of the decedent.

(b) If a personal representative or an heir or devisee of the decedent has apparent title to property to which this act applies, a purchaser for value or a lender taking a security interest in the property takes his interest in the property free of any rights of the surviving spouse.

(c) A purchaser for value or a lender need not inquire whether a vendor or borrower acted properly.

(d) The proceeds of a sale or creation of a security interest shall be treated in the same manner as the property transferred to the purchaser for value or a lender.

“§ 31C-8. Creditor's rights.—This act does not affect rights of creditors with respect to property to which this act applies.
"§ 31C-9. Acts of married persons.—This act does not prevent married persons from severing or altering their interests in property to which this act applies.

"§ 31C-10. Limitations on testamentary disposition.—This act does not authorize a person to dispose of property by will if it is held under limitations imposed by law preventing testamentary disposition by that person.

"§ 31C-11. Uniformity of application and construction.—This act shall be so applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of this act among those states which enact it.

"§ 31C-12. Short title.—This act may be cited as the Uniform Disposition of Community Property Rights at Death Act."

Sec. 2. This act shall become effective upon ratification and shall apply to the disposition of property of persons dying on or after the effective date.

In the General Assembly read three times and ratified, this the 8th day of July, 1981.

H. B. 1107

CHAPTER 883

AN ACT CLARIFYING THE RIGHTS OF PART-TIME AND SUBSTITUTE EMPLOYEES OF SECONDARY SCHOOLS TO UNEMPLOYMENT COMPENSATION BENEFITS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 96-13(b)(2) is amended by adding a new sentence at the end of the subsection as follows:

"The provisions of this subsection relating to the denial of benefits for any week of unemployment commencing during the period between two successive academic years or during a similar period between two regular terms shall apply to an individual who performs services on a part-time or substitute basis."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of July, 1981.

H. B. 1275

CHAPTER 884

AN ACT TO REMOVE SURETY BOND REQUIREMENTS FOR STATE OFFICIALS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 53-92 is hereby amended by deleting the second and third sentences thereof which read as follows:

"The Commissioner of Banks shall, before entering upon the discharge of his duties enter into bond with some surety company authorized to do business in the State of North Carolina, in the sum of not less than fifty thousand dollars ($50,000), conditioned upon the faithful and honest discharge of all duties and obligations imposed by statute upon him. Such bond shall be made as part of the blanket bond of State officers and employees provided for in G.S. 128-8."

Sec. 2. G.S. 58-7 is hereby repealed.

Sec. 3. G.S. 58-241.6, as the same appears in the 1979 Cumulative Supplement to Volume 2B of the General Statutes, is hereby amended by deleting the last sentence thereof.
Sec. 4. G.S. 74A-2 is hereby amended by deleting subsection (c) thereof and by renumbering subparagraph (d) as subparagraph (c).

Sec. 5. G.S. 86A-6 is hereby amended by deleting the third sentence thereof which reads as follows:

"The Executive Secretary, before entering upon the duties of the office, shall execute to the State of North Carolina a satisfactory bond with a duly licensed bonding company in this State as surety, or other acceptable surety, such bond to be in the penal sum of not less than ten thousand dollars ($10,000) and conditioned upon the faithful performance of the duties of the office and the true and correct accounting of all funds received by him."

Sec. 6. G.S. 86A-7 is hereby amended by deleting subsection (c) thereof and by renumbering subparagraphs (d) and (e) as subparagraphs (c) and (d) respectively.

Sec. 7. G.S. 88-14 is hereby amended by deleting the sentence beginning in line 17 thereof which reads as follows:

"The said secretary shall, before entering upon the duties of the office, execute a satisfactory bond with a duly licensed surety or other surety approved by the Director of the Budget, said bond to be in the penal sum of not less than ten thousand dollars ($10,000), and conditioned upon the faithful performance of the duties of the office and the true and correct accounting of all funds received by such secretary by virtue of such office."

Sec. 8. G.S. 90-130 is hereby amended by deleting therefrom the sentence which begins in line 19 thereof and reading as follows:

"The treasurer and secretary shall each give bond, approved by the board, for the faithful performance of their respective duties, in such sum as the board may from time to time determine."

Sec. 9. G.S. 90-245 is hereby amended by deleting therefrom the sentence beginning in line 7 thereof and reading as follows:

"The secretary to the board shall, before entering upon the duties of the office, execute a satisfactory bond with a duly licensed surety or other surety approved by the Director of the Budget, said bond to be in the penal sum of not less than two thousand dollars ($2,000), and conditioned upon the faithful performance of the duties of the office and the true and correct accounting of all funds received by such secretary by virtue of such office."

Sec. 10. G.S. 143-3.2 is hereby amended by deleting therefrom the last four sentences which read as follows:

"The Director of the Budget shall secure insurance and/or a bond in an amount of not less than twenty-five thousand dollars ($25,000) to protect the State of North Carolina against any misuse or unauthorized use of the facsimile signature machine by any person. It is further required that the State Disbursing Officer shall be placed under an official bond in a penal sum to be fixed by the Governor and Advisory Budget Commission at not less than fifty thousand dollars ($50,000). Such official bond shall be a bond with corporate surety and furnished by a company admitted to do business in the State, and the premiums will be paid by the State out of the appropriations to the Department of Administration. Such bond shall be made as part of the blanket bond of State officers and employees provided for in G.S. 128-8."
Sec. 11. G.S. 143-246 is hereby amended by deleting therefrom the sentence which begins in line 16 thereof and reading as follows:

"Before entering upon the duties of his office, the executive director shall take the oath of office as prescribed for public officials and shall execute and deposit with the State Treasurer a bond in the sum of ten thousand dollars ($10,000) to be approved by the State Treasurer, said bond to be conditioned upon the faithful performance of his duties of office."

Sec. 12. G.S. 147-57 is hereby repealed.

Sec. 13. G.S. 128-8 is hereby repealed.

Sec. 14. G.S. 147-67 is hereby repealed.

Sec. 15. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of July, 1981.

H. B. 1354  

AN ACT TO ALLOW CASWELL COUNTY TO CONVEY A TRACT OF LAND AT PRIVATE SALE TO THE CHEROKEE COUNCIL OF THE BOY SCOUTS OF AMERICA, INC.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of G.S. 153A-176 or Article 12 of Chapter 160A of the General Statutes, Caswell County is hereby authorized to convey at private sale to the Cherokee Council of the Boy Scouts of America, Inc., by good and sufficient deed its right, title and interest in and to the following described tract of land:

All that certain tract of land lying and being in Yanceyville Township, Caswell County, North Carolina and adjoining the Cherokee Council of the Boy Scouts of America, Inc. and Caswell County, North Carolina; BEGINNING at an iron and a corner with the Cherokee Council of the Boy Scouts of America, Inc. and Caswell County, N. C.; thence along the line of the said Council North 87 deg. 58 min. West 1,055.67 feet to an iron and a corner with said Council; thence continuing along the line of said Council North 6 deg. 58 min. West 467.94 feet to an iron and a corner with Caswell County; thence continuing along the line of Caswell County North 68 deg. 52 min. 28 seconds East 234.97 feet to an iron; thence North 52 deg. 18 min. 00 seconds East 178.50 feet to an iron; thence North 86 deg. 03 min. E. 126.82 feet to an iron; thence North 32 deg. 55 min. East 344.23 feet to an iron; thence North 68 deg. 55 min. 30 sec. East 40.38 feet to an iron; thence North 33 deg. 32 min. East 234.97 feet; thence South 60 deg. 00 min. East 248.73 feet; thence South 20 deg. 00 min. West 144.00 feet to an iron; thence South 10 deg. 25 min. West 176.69 feet to an iron; thence South 40 deg. 52 min. East 239.93 feet to an iron; thence South 02 deg. 02 min. West 589.34 feet to the point of Beginning and containing 20.034 acres, and being more particularly described by plat of survey for the Cherokee Council of the Boy Scouts of America, Inc. dated June 8, 1981 by William Conway Moorefield, which is incorporated herein by reference as a part of this description.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of July, 1981.
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S. B. 539  CHAPTER 886

AN ACT TO CREATE THE CHARITABLE SOLICITATION LICENSURE ACT.

The General Assembly of North Carolina enacts:

Section 1. Part 1A of Article 3 of G.S. Chapter 108, as recodified in Chapter 131C by Section 2 of Chapter 275 of the 1981 Session Laws, is rewritten to read as follows:

"CHAPTER 131C.

"Charitable Solicitation Licensure Act.

"§ 131C-1. Short title.—This Chapter shall be known and may be cited as the 'Charitable Solicitation Licensure Act'.

"§ 131C-2. Purpose.—It is the purpose of this Chapter to protect the general public and public charity in the State of North Carolina and to provide for the establishment and enforcement of basic standards for the soliciting and use of charitable funds in North Carolina.

"§ 131C-3. Definitions.—Unless a different meaning is required by the context, the following terms as used in this Chapter have the meanings hereinafter respectively ascribed to them:

(1) 'Charitable' means for a benevolent purpose, such as environmental, advocacy, health, educational, social welfare, art and humanities or civic purpose.

(2) 'Charitable sales promotion' means an advertising campaign sponsored by a for-profit entity which offers for sale a tangible item or provides a service upon the representation that all or a portion of the purchase price will be donated to a person established for a charitable purpose.

(3) 'Commission' means the Social Services Commission.

(4) 'Contribution' means any promise, gift, bequest, devise or other grant for consideration or otherwise, of any money or property of any kind or value, including the promise to pay, which is wholly or partly induced by a solicitation. The term does not include the fair market value of any merchandise or rights given in return for the contribution. The term does not include the portion of fees, dues and assessments for services or benefits received by the contributor.

(5) 'Department' means the Department of Human Resources.

(6) 'Fund-Raising Expenses' means the expenses of all activities that constitute a part of soliciting charitable contributions.

(7) 'Person' means individual, organization, trust, foundation association, partnership, corporation, society, or any other group or combination acting as a unit.

(8) 'Professional Fund-Raising Counsel' means any person who for a fee under a written agreement plans, conducts, manages, carries on or acts as a consultant, whether directly or indirectly, in connection with soliciting contributions, but who actually solicits no contributions as a part of such services. Such counsel does not include any person who only conducts a study to determine the feasibility of undertaking the solicitation of contributions. A salaried employee of the person for whom the contributions are solicited or of its tax exempt parent organization is not included within the term.

(9) 'Professional Solicitor' means any person who, for a financial or other consideration, solicits or employs another to solicit contributions. A salaried
employee of the person for whom the contributions are solicited or of its tax
exempt parent organization and the person for whom the contributions are
solicited are not included within the term. An attorney, investment counselor
or banker, who advises any person to make a contribution to a person
established for a charitable purpose, is not, as the result of such advice, a
professional fund-raising counsel or a professional solicitor.

(10) 'Secretary' means the Secretary of the Department of Human Resources.

(11) 'Solicit' and 'Solicitation' means the request or appeal, directly or
indirectly, for any charitable contribution, including without limitation, the
following methods of requesting such contribution:

a. Any oral or written request;

b. Any announcement to the press, over the radio or television or by
telephone or telegraph concerning an appeal or campaign to which the
public is requested to make a contribution for any charitable purpose
connected therewith;

c. The distribution, circulation, posting or publishing of any handbill,
written advertisement or other publication, including any
advertisement or listing in a telephone directory, which directly or by
implication seeks to obtain public support;

d. The sale of, offer or attempt to sell, any advertisement, advertising
space, subscription, ticket, or any service or tangible item in connection
with which any appeal is made for any charitable purpose; or where the
name of any person established for a charitable purpose is used or
referred to in any such appeal as an inducement or reason for making
any such sale; or when or where in connection with any such sale, any
statement is made that the whole or any part of the proceeds from any
such sale will be donated to any charitable purpose. Solicitation occurs
when the request is made and at the place the request is received,
whether or not the person making the same actually receives any
contribution.

(12) 'Total Support and Revenue' means the total of all income received from
all sources, including governmental grants.

"§ 131C-4. Licensure required for charitable solicitation.—(a) Any person who
solicits charitable contributions shall apply for and obtain an annual license
from the Department of Human Resources. A person who is authorized to
solicit on behalf of a licensed or exempt person is not required to obtain a
license under this section.

(b) A person may solicit charitable contributions after filing the application
until the Department notifies him that the application has been denied and he
waives or exhausts his administrative remedies under Article 3 of G.S. Chapter
150A.

(c) A person who has been denied a license and has waived or exhausted his
administrative remedies under Article 3 of G.S. Chapter 150A shall not solicit
charitable contributions until another application has been filed with the
Department and a license issued by the Department.

"§ 131C-5. Exemptions.—(a) Any person who solicits charitable contributions
for a religious purpose or on behalf of a person established for a religious
purpose shall not be required to apply for a license.

(b) Solicitation of charitable contributions by the federal, State or local
government, or any agency thereof, shall not be subject to this Article. For
purposes of this subsection any volunteer fire department or rescue squad which receives any funds from federal, State, or local government shall be considered an agency thereof.

(c) Any person who receives less than ten thousand dollars ($10,000) in contributions in any calendar year and does not provide compensation to any officer, trustee, organizer, incorporator, fund-raiser or professional solicitor shall not be required to apply for a license.

(d) Any educational institution, the curriculum of which in whole or in part, is registered, approved or accredited by the Southern Association of Colleges and Schools or an equivalent regional accrediting body; any educational institution in compliance with Article 39 of Chapter 115C of the General Statutes; and any foundation or department having an established identity with any of the aforementioned educational institutions shall not be required to apply for a license.

(e) Any person established solely to operate a hospital licensed pursuant to Article 13A of Chapter 131 of the General Statutes shall not be required to apply for a license; provided, however, that the governing board of the hospital authorizes the solicitation and receives an accounting of the funds collected and expended.

(f) Any noncommercial radio or television station shall not be required to apply for a license.

"§ 131C-6. Licensure required for professional fund-raising counsel and professional solicitor.—Any person who acts as a professional fund-raising counsel or professional solicitor shall apply for and obtain an annual license from the Department. A person who is authorized to act on behalf of a licensed professional fund-raising counsel or a licensed professional solicitor is not required to obtain a license under this section.

"§ 131C-7. Contents of application for charitable solicitation licensure.—(a) An application for licensure shall be in writing, verified under oath or affirmation and shall contain:

(1) The name of the person.
(2) The address of the person.
(3) The names and addresses of any chapters, branches or affiliates and other persons which will share in the charitable contributions received from persons in this State.
(4) The place and date the person was legally established, if applicable, and a reference to any determination of its tax-exempt status under the Internal Revenue Code. In the initial application, true copies shall be submitted of any articles of incorporation or Constitution, any bylaws, any tax-exempt status letter from the Internal Revenue Service including any Letter of Determination Status and any Agreements of Affiliation. Subsequent applications shall contain only any change or revocation of these documents.
(5) The names, addresses and occupations of the officers, directors, trustees, persons who are directly in charge of the fund-raising activities and persons who have custody of the financial records or custody of the contributions and a statement whether any such person has been convicted of a felony.
(6) A copy of a financial statement in a consolidated report audited by an independent public accountant for the person's immediately preceding
fiscal year or, if none, for the present fiscal year or part thereof; provided that if total support and revenue exceeds two hundred fifty thousand dollars ($250,000) for the fiscal year or part thereof, the report shall be audited by a certified public accountant. Information as to the total support and revenue and all of the fund-raising activities including the balance sheet, kind and amounts of funds raised, costs and expenses incidental thereto, allocation or disbursement of funds raised, changes in fund balances, notes to the audit and the opinion as to the fairness of the presentation by the accountant shall be included. This report shall conform to the accounting and reporting procedures established by the Commission. The Commission shall adopt rules for simplified reporting by persons whose total support and revenue is one hundred thousand dollars ($100,000) or less.

(7) A statement indicating whether the person is authorized by any other governmental authority to solicit contributions and whether it, or any officer, professional fund-raising counsel or professional solicitor thereof, is or has ever been enjoined by any court or otherwise prohibited from soliciting contributions in any jurisdiction.

(8) A statement indicating whether the person solicits contributions from the public directly or have such done on its behalf by others.

(9) The location of the person’s financial records.

(10) Method by which solicitation is made, including a statement as to whether such solicitation is conducted by voluntary unpaid solicitors, by professional solicitors, or both; and a narrative description of the promotional plan together with copies of all advertising material which has been prepared for public distribution by any means of communication and the location of all telephone solicitation facilities.

(11) The names and addresses of any professional fund-raising counsel and professional solicitors who are acting or who have agreed to act on behalf of the organization together with a statement setting forth the terms of the arrangements for salaries, bonuses, commissions, or other remuneration with the professional fund-raising counsel and professional solicitors.

(12) The period of time during which the solicitations are made and, if less than statewide, the area, or areas, in which such solicitation generally takes place.

(13) The purposes for which contributions to be solicited are used, the total amount of funds proposed to be raised thereby, and the use or disposition made of the charitable contributions received.

(14) The name or names under which the person solicits contributions.

(15) A sample copy of the authorization issued to individuals soliciting by means of personal contact in its behalf.

(16) The name and address of an agent authorized to accept service of process in this State.

(17) A statement indicating whether an agreement exists which permits another to use its name in a charitable sales promotion and a copy of any accounting of the charitable sales promotion.

(18) Such other information as may be reasonably required by the Commission for the public interest or for the protection of contributors.
(b) The Department shall be notified in writing of any change in the information contained in the application within 30 days after the change occurs.

"§131C-8. Contents of application for professional fund-raising counsel or professional solicitor.—(a) An application for licensure shall be in writing, verified under oath or affirmation and shall contain such information as specified in G.S. 131C-7 as the Commission shall require. In addition, the application shall contain:

(1) the name and address of all officers, employees and agents;
(2) the name and address of all persons who own a ten percent (10%) or more interest in the applicant; and
(3) a description of any other business conducted by the applicant or any person who owns a ten percent (10%) or more interest in the applicant.

(b) The Department shall be notified in writing of any change in the information contained in the application within seven days after the change occurs.

"§131C-9. Fees.—(a) An application for licensure under G.S. 131C-4 or G.S. 131C-6 shall be accompanied by a fee not to exceed one hundred dollars ($100.00) in accordance with a fee schedule established by the Commission.

(b) The fees collected shall be used, in addition to funds appropriated by the General Assembly, for the administration of this Chapter.

"§131C-10. Bond.—An applicant under G.S. 131C-6 shall, at the time of making application, file with and have approved by the Department a bond in which the applicant shall be the principal obligor in the sum of ten thousand dollars ($10,000) with one or more sureties satisfactory to the Department, whose liability in the aggregate as such sureties will at least equal the said sum; and the applicant shall maintain said bond in effect so long as the license is in effect. The bond shall run to the State for the use of said bond for any penalties and to any person who may have a cause of action against the obligor of the bond for any losses resulting from the obligor’s conduct of any and all activities subject to this Chapter or arising out of a violation of this Chapter or any rule of the Commission.

"§131C-11. Denial and revocation of license.—(a) The Department shall deny a license applied for under G.S. 131C-4 or G.S. 131C-6 or revoke a license after issuance for the following reasons:

(1) The application is incomplete.
(2) The application fee has not been paid.
(3) The application contains one or more false statements.
(4) The charitable contributions have or are not being applied for the purpose or purposes stated in the application.
(5) The applicant or licensee has failed to comply with any provisions or this Chapter or any rule adopted pursuant to the Chapter.

(b) The Department shall notify the applicant or licensee of its intent to deny or revoke a license. The notification shall contain the reasons for the action and shall inform him of his right to correct the matter or to request an administrative hearing within 10 days of the receipt of the notification. The denial or revocation shall become effective 10 days after receipt of the notification unless the matter is corrected or a request for an administrative hearing is received by the Department before the expiration of the 10 days. If a hearing is requested and the denial or revocation is upheld, the denial or
revocation shall become effective upon the service of the final administrative decision on the applicant of licensee.

“§ 131C-12. Rule-making authority.—The Social Services Commission shall have the authority to adopt rules necessary for the implementation of this Chapter and to prevent false and deceptive statements and conduct in the solicitation of charitable contributions.

“§ 131C-13. Fiscal records.—Any person subject to licensure under this Chapter shall maintain accurate fiscal records in accordance with rules adopted by the Commission.

“§ 131C-14. Written contracts; accounting.—(a) Any contract between a professional fund-raising counsel or professional solicitor and a person established for a charitable purpose shall be in writing and shall be filed with the Department within 10 days after the contract is entered into.

(b) A professional solicitor shall file with the Department, within 20 days from the conclusion of any solicitation, an accounting of all funds received, pledged and disbursed. The accounting shall be signed and verified under oath or affirmation by the professional solicitor and an authorized representative of the person established for a charitable purpose.

“§ 131C-15. Reciprocal agreements.—The Department may enter into reciprocal agreements with other states and the federal government in order to fulfill its duties under this Chapter.

“§ 131C-16. Disclosure.—Any person subject to licensure under this Chapter or who is authorized to solicit on behalf of a person licensed under this Chapter shall disclose by printed notice within 30 days after licensure within each county in the State in which a solicitation is conducted, his percentage of fund raising expenses and purpose of the organization. This disclosure shall be published in the newspaper having the largest audited circulation in each county for three consecutive days each year. And it shall be in a form prescribed by the Social Services Commission.

“§ 131C-17. Prohibited acts.—No person who solicits charitable contributions shall:

(1) use the fact of licensure as an endorsement by the State;
(2) use the name ‘police’, ‘law enforcement’, ‘rescue squad’, ‘firemen’, or ‘firefighter’ unless a bona fide police, law enforcement, rescue squad or fire department authorized its use in writing;
(3) misrepresent or mislead anyone to believe that the contribution will be used for a charitable purpose if he has reason to believe such is not the fact;
(4) misrepresent or mislead anyone to believe that another person sponsors or endorses the solicitation unless such person has consented in writing to the use of his name for such purpose;
(5) misrepresent or mislead anyone to believe that the contribution is solicited on the behalf of anyone other than the person for whose benefit the contribution is solicited; or
(6) spend the contributions solicited for purposes other than those stated in the application under G.S. 131C-4 or if not subject to licensure, for purposes other than those stated at the time of the solicitation.

“§ 131C-18. Duty of Secretary of Human Resources to investigate.—The Secretary of Human Resources shall have the power, and it shall be his duty, to investigate, from time to time, the activities of all persons soliciting charitable
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contributions in this State, which are or may in his opinion be subject to this
Chapter, or which have or may have violated G.S. 131C-17. Such investigation
shall be with a view of ascertaining whether this Chapter is being or has been
violated by any such person, and if so, in what respect, with the purpose of
acquiring such information as may be necessary to enable him to grant or deny
an application for licensure, to revoke a license, to seek an injunction against
any person, or to take any other action pursuant to this Chapter.

"§ 131C-19. Power to compel examination.—In performing the duty required
in G.S. 131C-18, the Secretary shall have the power, at all times, to require the
officers, agents or employees of any person soliciting charitable contributions in
this State and all other persons having knowledge with respect to the matters
and activities of such persons, to submit themselves to examination by him, and
produce for his inspection any of the books and papers of any such persons, or
which are in any way connected with the business thereof; and the Secretary is
hereby given the right to administer oath to any person whom he may desire to
examine. He shall also, if it may become necessary, have the right to apply to
any justice or judge of the appellate or superior court divisions, after five days
notice of such application, for an order on any such person he may desire to
examine to appear and subject himself or itself to such examination, and
disobedience of such order shall constitute contempt, and shall be punishable as
in other cases of disobedience of a proper order of such judge.

"§ 131C-20. Person examined exempt from prosecution.—No individual
examined, as provided in G.S. 131C-19, shall be subject to indictment, criminal
prosecution, criminal prosecution, criminal punishment or criminal penalty by reason of or on
account of anything disclosed by him upon examination, and full immunity
from criminal prosecution and criminal punishment by reason of or on account
of anything so disclosed is hereby extended to all individuals so examined. The
immunity herein granted shall not apply to civil actions.

"§ 131C-21. Injunction.—If any person shall violate or threaten to violate any
provision of this Chapter, the Secretary of Human Resources may institute an
action in the Superior Court of Wake County for injunctive relief against such
violation or threatened violation.

"§ 131C-22. Misdemeanor.—Any person who willfully violates any provision
of this Chapter shall be guilty of a misdemeanor."

Sec. 2. Severability. If any provision of this act or the application
thereof to any person or circumstance is held invalid, the invalidity does not
affect other provisions or application of the act which can be given effect
without the invalid provision or application, and to this end the provisions of
this act are severable.

Sec. 3. Effective date. This act shall become effective January 1, 1982.

In the General Assembly read three times and ratified, this the 8th day of
July, 1981.

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S. B. 568  
CHAPTER 887
AN ACT TO AMEND, SUBJECT TO THE APPROVAL OF THE ELECTORATE, ARTICLE V OF THE CONSTITUTION OF NORTH CAROLINA TO AUTHORIZE THE ISSUANCE OF REVENUE BONDS TO FINANCE AND REFINANCE HIGHER EDUCATION FACILITIES OWNED BY NONPROFIT CORPORATIONS.

The General Assembly of North Carolina enacts:

Section 1. Article V of the Constitution of North Carolina is hereby amended by adding a new section, to read as follows:

"Sec. 11. Higher Education Facilities. Notwithstanding any other provisions of this Constitution, the General Assembly may enact general laws to authorize the State or any State entity to issue revenue bonds to finance and refinance the cost of acquiring, constructing, and financing higher education facilities to be operated to serve and benefit the public for any nonprofit private corporation, regardless of any church or religious relationship; provided, no cost incurred earlier than five years prior to the effective date of this section shall be refinanced. Such bonds shall be payable from any revenues or assets of any such nonprofit private corporation pledged therefor, shall not be secured by a pledge of the full faith and credit of the State or such State entity or deemed to create an indebtedness requiring voter approval of the State or such entity, and, where the title to such facilities is vested in the State or any State entity, may be secured by an agreement which may provide for the conveyance of title to, with or without consideration, such facilities to the nonprofit private corporation. The power of eminent domain shall not be used pursuant hereto."

Sec. 2. The amendment set forth in Section 1 of this act shall be submitted to the qualified voters of the State at the next statewide primary election or statewide general election or the next statewide election, whichever is earlier, which shall be conducted under the laws then governing elections in the State. At said election, each qualified voter desiring to vote shall be provided a ballot on which shall be printed the following:

"FOR constitutional amendment to permit the General Assembly to enact general laws to authorize the State, or any State entity to issue revenue bonds to finance or refinance the cost of acquiring, constructing and financing higher education facilities for any nonprofit private corporation, regardless of any church or religious relationship, such bonds to be payable from any revenues or assets of any such nonprofit private corporation pledged therefor."

"AGAINST constitutional amendment to permit the General Assembly to enact general laws to authorize the State, or any State entity to issue revenue bonds to finance or refinance the cost of acquiring, constructing and financing higher education facilities for any nonprofit private corporation, regardless of any church or religious relationship, such bonds to be payable from any revenues or assets of any such nonprofit private corporation pledged therefor."

Those qualified voters favoring the amendment shall vote by making an "X" or a check mark in the square beside the statement beginning "FOR", and those qualified voters opposed to the amendment shall vote by making an "X" or a check mark in the square beside the statement beginning "AGAINST".

Notwithstanding the foregoing provisions of this section, voting machines may be used in accordance with rules and regulations prescribed by the State Board of Elections.
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Sec. 3. If a majority of votes cast thereon are in favor of the amendment, the State Board of Elections shall certify the amendment to the Secretary of State, who shall enroll the amendment so certified among the permanent records of his office, and the amendment shall become effective upon such certification.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of July, 1981.

S. B. 676    CHAPTER 888

AN ACT TO MAKE TECHNICAL CHANGES AND CLARIFICATIONS REGARDING THE JURISDICTION OF THE NORTH CAROLINA RATE BUREAU.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-124.17(1) is amended by adding after the word "therewith" on line 15 the following:

"except for insurance excluded from the Bureau’s jurisdiction in G.S. 58-124.17(3)."

Sec. 2. G.S. 58-124.17(3) is amended by adding a new sentence to read:

"The Bureau shall have no jurisdiction over excess workers’ compensation insurance for employers qualifying as self-insurers as provided in G.S. 97-93; nor shall the Bureau’s jurisdiction include farm buildings other than farm dwellings and their appurtenant structures; farm personal property; travel or camper trailers designed to be pulled by private passenger motor vehicles, unless insured under policies covering nonfleet private passenger motor vehicles; residential real and personal property insured in multiple line insurance policies covering business activities as the primary insurable interest; and marine, general liability, burglary and theft, glass, and animal collision insurance, except when such coverages are written as an integral part of a multiple line insurance policy for which there is an indivisible premium."

Sec. 3. G.S. 58-124.17(5) is rewritten to read:

"(5) It is the duty of every insurer that writes workers’ compensation insurance in this State and is a member of the Bureau, as defined in this section and G.S. 58-124.18 to insure and accept any workers’ compensation insurance risk that has been certified to be ‘difficult to place’ by any fire and casualty insurance agent who is licensed in this State. When any such risk is called to the attention of the Bureau by receipt of an application with an estimated or deposit premium payment and it appears that the risk is in good faith entitled to such coverage, the Bureau will bind coverage for 30 days and will designate a member who must issue a standard workers’ compensation policy of insurance that contains the usual and customary provisions found in those policies. Coverage will be bound at 12:01 A.M. on the first day following the postmark time and date on the envelope in which the application is mailed including the estimated annual or deposit premium, or the expiration of existing coverage, whichever is later. If there should be no postmark, coverage will be effective 12:01 A.M. on the date of receipt by the Bureau unless a later date is requested. Those applications hand delivered to the Bureau will be effective as of 12:01 A.M. of the date following receipt by the Bureau unless a later date is requested. The designated carrier may request of the Bureau certification of the State
Department of Labor that the insured is complying with the laws, rules, and regulations of that Department. The certification must be finished within 30 days by the State Department of Labor unless extension of time is granted by agreement between the Bureau and the State Department of Labor. The Bureau will make and adopt such rules as are necessary to carry this section into effect, subject to final approval of the Commissioner. As a prerequisite to the transaction of workers' compensation insurance in this State, every member of the Bureau that writes such insurance must file with the Bureau written authority permitting the Bureau to act in its behalf, as provided in this section, and an agreement to accept risks that are assigned to the member by the Bureau, as provided in this section."

Sec. 4. G.S. 58-124.18(a) is amended on line 12 by adding immediately after the word "therewith" the following:

"; except for insurance excluded from the Bureau's jurisdiction in G.S. 58-124.17(3)"

Sec. 5. G.S. 58-131.36(11) is amended by adding after the word "insurance" on line 4 the following:

"Provided, however, that this Article shall apply to insurance against loss to farm buildings (other than farm dwellings and their appurtenant structures); farm personal property; travel or camper trailers designed to be pulled by private passenger motor vehicles unless insured under policies covering nonfleet private passenger motor vehicles; residential real and personal property insured in multiple line insurance policies covering business activities as the primary insurable interest; and marine, general liability, burglary and theft, glass, and animal collision insurance except when such coverages are written as an integral part of a multiple line insurance policy for which there is an indivisible premium."

Sec. 6. G.S. 58-366(b) is amended by adding a new subsection (7) to read:

"(7) Insurance on farm buildings (other than farm dwellings and their appurtenant structures); farm personal property; travel or camper trailers designed to be pulled by private passenger motor vehicles unless insured under policies covering nonfleet private passenger motor vehicles; residential real and personal property insured in multiple line insurance policies covering business activities as the primary insurable interest; and marine, general liability, burglary and theft, glass, and animal collision insurance except when such coverages are written as an integral part of a multiple line insurance policy for which there is an indivisible premium."

Sec. 7. G.S. 58-371(a)(1) is amended on line 8 by adding after the word "insurance" the following "except as excluded in G.S. 58-366(b)(7)"

Sec. 8. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of July, 1981.
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H. B. 1127  CHAPTER 889
AN ACT TO AMEND THE FAIR SENTENCING ACT OF 1981 TO MAKE SALE OR DELIVERY OF A CONTROLLED SUBSTANCE TO A MINOR AN AGGRAVATING FACTOR.

The General Assembly of North Carolina enacts:

Section 1. Chapter 179, Session Laws of 1981 is amended by adding to Section 1, after subsection "o", the following:

"p. The offense involved the sale or delivery of a controlled substance to a minor."

Sec. 2. This act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 9th day of July, 1981.

H. B. 439  CHAPTER 890
AN ACT TO AMEND CHAPTER 66 OF THE GENERAL STATUTES TO PROTECT TRADE SECRETS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 66 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 22.
"Trade Secrets Protection Act.

§66-126. Definitions.—As used in this Article, unless the context requires otherwise:

(a) 'Misappropriation' means acquisition, disclosure, or use of a trade secret of another without express or implied authority or consent, unless such trade secret was arrived at by independent development, reverse engineering, or was obtained from another person with a right to disclose the trade secret.

(b) 'Person' means an individual, corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership, association, joint venture, or any other legal or commercial entity.

(c) 'Trade secret' means business or technical information, including but not limited to a formula, pattern, program, device, compilation of information, method, technique, or process that:

(1) derives independent actual or potential commercial value from not being generally known or readily ascertainable through independent development or reverse engineering by persons who can obtain economic value from its disclosure or use; and

(2) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

The existence of a trade secret shall not be negated merely because the information comprising the trade secret has also been developed, used, or owned independently by more than one person, or licensed to other persons.

§66-127. Misappropriation actionable.—The owner of a trade secret shall have remedy by civil action for misappropriation of his trade secret.

§66 128. Remedies.—(a) Except as provided herein, actual or threatened misappropriation of a trade secret may be preliminarily enjoined during the pendency of the action and shall be permanently enjoined upon judgment finding misappropriation for the period that the trade secret exists plus an
additional period as the court may deem necessary under the circumstances to eliminate any inequitable or unjust advantage arising from the misappropriation.

(1) If the court determines that it would be unreasonable to enjoin use after a judgment finding misappropriation, an injunction may condition such use upon payment of a reasonable royalty for any period the court may deem just. In appropriate circumstances, affirmative acts to protect the trade secret may be compelled by order of the court.

(2) A person who in good faith derives knowledge of a trade secret from or through misappropriation or by mistake, or any other person subsequently acquiring the trade secret therefrom or thereby, shall be enjoined from disclosing the trade secret, but no damages shall be awarded against any person for any misappropriation prior to the time the person knows or has reason to know that it is a trade secret. If the person has substantially changed his position in good faith reliance upon the availability of the trade secret for future use, he shall not be enjoined from using the trade secret but may be required to pay a reasonable royalty as deemed just by the court. If the person has acquired inventory through such knowledge or use of a trade secret, he can dispose of the inventory without payment of royalty. If his use of the trade secret has no adverse economic effect upon the owner of the trade secret, the only available remedy shall be an injunction against disclosure.

(b) In addition to the relief authorized by subsection (a), actual damages may be recovered, measured by the economic loss or the unjust enrichment caused by misappropriation of a trade secret, whichever is greater.

(c) If willful and malicious misappropriation exists, the trier of fact also may award punitive damages in its discretion.

(d) If a claim of misappropriation is made in bad faith or if willful and malicious misappropriation exists, the court may award reasonable attorneys' fees to the prevailing party.

"§ 66-129. Burden of proof.—Misappropriation of a trade secret is prima facie established by the introduction of substantial evidence that the person against whom relief is sought both:

(1) knows or should have known of the trade secret; and

(2) has had a specific opportunity to acquire it for disclosure or use or has acquired, disclosed, or used it without the express or implied consent or authority of the owner.

This prima facie evidence is rebutted by the introduction of substantial evidence that the person against whom relief is sought acquired the information comprising the trade secret by independent development, reverse engineering, or it was obtained from another person with a right to disclose the trade secret. This section shall not be construed to deprive the person against whom relief is sought of any other defenses provided under the law.

"§ 66-130. Preservation of secrecy.—In an action under this Article, a court shall protect an alleged trade secret by reasonable steps which may include granting protective orders in connection with discovery proceedings, holding in-camera hearings, sealing the records of the action subject to further court order, and ordering any person who gains access to an alleged trade secret during the litigation not to disclose such alleged trade secret without prior court approval.

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"§ 66-131. Statute of limitations.—An action for misappropriation of a trade secret must be commenced within three years after the misappropriation complained of is or reasonably should have been discovered."

Sec. 2. G.S. 6-21 is amended by inserting a new subdivision (12) to read as follows:

"(12) In actions brought for misappropriation of a trade secret under Article 22 of Chapter 66 of the General Statutes."

Sec. 3. This act shall become effective October 1, 1981, and shall apply only to causes of action arising after that date.

In the General Assembly read three times and ratified, this the 9th day of July, 1981.

H. B. 1088    CHAPTER 891

AN ACT REVISING PROCEDURES FOR ADMINISTRATION OF LOCAL ZONING REGULATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-364 is amended by rewriting the final sentence thereof to read: "In computing such period, the day of publication is not to be included but the day of the hearing shall be included."

Sec. 2. G.S. 153A-323 is amended by adding the following sentence at the end thereof: "In computing such period, the day of publication is not to be included but the day of the hearing shall be included."

Sec. 3. Chapter 160A of the General Statutes is amended by adding a new section to read:

"§ 160A-364.1. Statute of Limitations.—A cause of action as to the validity of any zoning ordinance, or amendment thereto, adopted under this Article or other applicable law shall accrue upon adoption of the ordinance, or amendment thereto, and shall be brought within nine months as provided in G.S. 1-54.1."

Sec. 4. G.S. 1-54.1 is amended by adding after the word "law" the words "or adopted by a city under Article 160A of the General Statutes or other applicable law."

Sec. 5. G.S. 160A-381 is amended by adding the following sentence at the end thereof: "When issuing or denying special use permits or conditional use permits, the city council shall follow the procedures for boards of adjustment except that no vote greater than a majority vote shall be required for the city council to issue such permits, and every such decision of the city council shall be subject to review by the superior court by proceedings in the nature of certiorari."

Sec. 6. G.S. 153A-340 is amended by adding the following sentence at the end thereof: "When issuing or denying special use permits or conditional use permits, the board of commissioners shall follow the procedures for boards of adjustment except that no vote greater than a majority vote shall be required for the board of commissioners to issue such permits, and every such decision of the board of commissioners shall be subject to review by the superior court by proceedings in the nature of certiorari."
Sec. 7. G.S. 160A-388(e) as found in the 1980 Interim Supplement is amended by rewriting the last two sentences to read:

"Any petition for review by the superior court shall be filed with the clerk of superior court within 30 days after the decision of the board is filed in such office as the ordinance specifies, or after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the secretary or chairman of the board at the time of its hearing of the case, whichever is later. The decision of the board may be delivered to the aggrieved party either by personal service or by registered mail or certified mail return receipt requested."

Sec. 8. G.S. 153A-345(e) is amended by rewriting the last two sentences to read:

"Any petition for review by the superior court shall be filed with the clerk of superior court within 30 days after the decision of the board is filed in such office as the ordinance specifies, or after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the secretary or chairman of the board at the time of its hearing of the case, whichever is later. The decision of the board may be delivered to the aggrieved party either by personal service or by registered mail or certified mail return receipt requested."

Sec. 9. G.S. 153A-323 is amended by rewriting the third sentence to read:

"The notice shall be published the first time not less than 10 days nor more than 25 days before the date fixed for the hearing."

Sec. 10. An action with respect to the validity of any city zoning ordinance, or amendment thereto, adopted under Article 160A of the General Statutes or other applicable law enacted prior to September 1, 1981, shall be brought within nine months of September 1, 1981.

Sec. 11. G.S. 63-33(a) is amended by deleting the words "15 days", and inserting in lieu thereof "10 days".

Sec. 12. This act shall become effective September 1, 1981.

In the General Assembly read three times and ratified, this the 9th day of July, 1981.

H. B. 1211    CHAPTER 892

AN ACT TO INCREASE THE PENALTIES FOR INTENTIONALLY SETTING FOREST FIRES, TO INCREASE REWARD FOR EVIDENCE SUFFICIENT FOR CONVICTION UNDER FOREST FIRE STATUTE, AND TO PROVIDE THAT REWARD BE PAID FROM THE STATE FIRE SUPPRESSION FUND.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-136, as the same appears in 1969 Replacement Volume 1B of the General Statutes and as amended by 1979 Session Laws, Chapter 760, Section 5, is amended by rewriting the second sentence as follows:

"If intent to damage the property of another shall be shown, said person shall, for a first offense, be punished as a Class I felon; and for a second and subsequent offenses said person shall be punished as a Class H felon."; and is further amended by rewriting the last sentence to read as follows: "Any person who shall furnish to the State, evidence sufficient for the conviction of a
violation of this section shall receive the sum of five hundred dollars ($500.00) to be paid from the State Fire Suppression Fund."

Sec. 2. This act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 9th day of July, 1981.

H. B. 1263  CHAPTER 893
AN ACT TO REDEFINE THE NEWSPAPERS ELIGIBLE TO ACCEPT LEGAL ADVERTISING IN MCDOWELL AND CHATHAM COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. The first sentence of G.S. 1-597 is amended by deleting the words "to actual paid subscribers" and by adding after the first sentence which ends with the word "herein" the following sentence:

"Provided further, that in the event the newspaper otherwise meeting the qualifications and having the characteristics prescribed by G.S. 1-597 to 1-599, is admitted to the United States mails as third class matter rather than second class matter, the newspaper shall qualify if it maintains a known office in the county or political subdivision where such publication, advertisement or notice is required to be published, is originated and published for the purpose of disseminating information of a public character, is not primarily designed for advertising purposes, does not contain more than seventy-five percent (75%) advertising in more than one-fourth of the issues published during the preceding six-month period, and at least thirty percent (30%) of the copies are sold or mailed to named addressees."

Sec. 2. The second sentence of G.S. 1-597 is amended by adding after the words "newspaper's plant" the words "or known office".

Sec. 3. This act applies to McDowell and Chatham Counties only.

Sec. 4. This act is effective upon ratification, but shall expire July 1, 1983.

In the General Assembly read three times and ratified, this the 9th day of July, 1981.

S. B. 87  CHAPTER 894
AN ACT TO DIVIDE NORTH CAROLINA INTO ELEVEN CONGRESSIONAL DISTRICTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-201 is rewritten to read:

"§ 163-201. Congressional districts specified.—(a) For the purpose of nominating and electing members of the House of Representatives of the Congress of the United States in 1982 and every two years thereafter, the State of North Carolina shall be divided into 11 districts as follows:


THIRD DISTRICT: Bladen, Duplin, Harnett, Johnston, Jones, Lee, Onslow, Pender, Sampson, and Wayne Counties.
FOURTH DISTRICT: Durham, Orange, and Wake Counties.
SIXTH DISTRICT: Davidson, Guilford, and Randolph Counties; and only the following townships of Moore County: Township 1 (Carthage), Township 3 (Sheffields), Township 4 (Ritters), Township 5 (Deep River), and Township 6 (Greenwood).
SEVENTH DISTRICT: Brunswick, Columbus, Cumberland, New Hanover, and Robeson Counties.
EIGHTH DISTRICT: Anson, Cabarrus, Davie, Hoke, Montgomery, Richmond, Rowan, Scotland, Stanly, Union, and Yadkin Counties; and all townships of Moore County except: Township 1 (Carthage), Township 3 (Sheffields), Township 4 (Ritters), Township 5 (Deep River), Township 6 (Greenwood).
NINTH DISTRICT: Iredell, Lincoln, and Mecklenburg Counties.
TENTH DISTRICT: Avery, Burke, Caldwell, Catawba, Cleveland, Gaston, and Watauga Counties.
(b) The name and boundaries of townships specified in this section are as they were legally defined and in effect as of January 1, 1980, and recognized in the 1980 U.S. Census.”
Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 9th day of July, 1981.

S. B. 571

CHAPTER 895

AN ACT TO TRANSFER AND REORGANIZE THE NORTH CAROLINA HOUSING FINANCE AGENCY.

The General Assembly of North Carolina enacts:

Section 1. The North Carolina Housing Finance Agency is transferred to the Office of State Budget and Management; this transfer shall be neither a Type I nor Type II transfer as defined by G.S. 143A-6; the purpose of this transfer is to permit the board of directors of the North Carolina Housing Finance agency to exercise the powers granted to the agency by Chapter 122A of the General Statutes and all management functions of the agency, as defined by G.S. 143A-6(c), independently of the direction, supervision or control of the Office of State Budget and Management; provided, however, that the agency shall be subject to the management functions of reporting and budgeting, as defined by G.S. 143A-6 to the extent that the agency shall submit its budgets and reported expenditures to the Office of State Budget and Management in accordance with the provisions of the Executive Budget Act and shall receive any monies appropriated to the agency by the General Assembly through appropriations to the Office of State Budget and Management which are designated for use by the agency.

Sec. 2. G.S. 122A-4 is amended by deleting the number “14” in the second sentence and substituting the number “13”; by deleting the third sentence; and on line 31 by deleting the number “13” and substituting therefor 1331
the number "12" and by deleting the word "fourteenth" and substituting therefor the word "thirteenth". G.S. 122A-4 is further amended by deleting the last three sentences of the first paragraph and substituting: "The agency shall exercise all of its prescribed statutory powers independently of any principal State Department except as described in this Chapter. The Executive Director of the agency shall be appointed by the board of directors, subject to approval by the Governor. All staff and employees of the agency shall be appointed by the Executive Director, subject to approval by the board of directors; shall be eligible for participation in the State Employees’ Retirement System; and shall be exempt from the provisions of the State Personnel Act; provided, however, that the executive Director shall, on or before January 15 of each year, subject to the approval of the board of directors, designate those employees of the agency which are employed in secretarial, clerical or administrative positions. All employees designated as secretarial, clerical or administrative shall be compensated in accordance with the salary schedules adopted pursuant to the State Personnel Act. The board of directors shall set the salary of the Executive Director and all other staff and employees of the agency whose positions are not designated as secretarial, clerical or administrative, subject to prior approval by the Advisory Budget Commission. The salary of the Executive Director and all staff and employees of the agency shall not be subject to any limitations imposed pursuant to any salary schedule adopted pursuant to the terms of the State Personnel Act. The board of directors shall, subject to the approval of the Governor, elect and prescribe the duties of such other officers as it shall deem necessary or advisable, and the Advisory Budget Commission shall fix the compensation of such officers. The books and records of the agency shall be maintained by the agency and shall be subject to periodic review and audit by the State."

Sec. 3. G.S. 122A-5 is amended by rewriting subdivision (18) to read:

"(18) To establish and maintain an office for the transaction of its business in the City of Raleigh and at such place or places as the board of directors deems advisable or necessary in carrying out the purposes of this Chapter; provided, however, that the agency shall comply with the provisions of Articles 6 and 7 of Chapter 146 of the General Statutes governing the acquisition of office space."

Sec. 4. G.S. 122A-16 is amended by deleting the words "Secretary of the Department of Natural Resources and Community Development" in the second sentence and substituting "The Office of State Budget and Management".

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of July, 1981.

1332
S. B. 86

CHAPTER 896

AN ACT TO REQUIRE A PERSON WHO FAILS TO APPEAR IN COURT 
TO ANSWER THE CHARGE OR PAY COURT COSTS BEFORE HE MAY 
RECEIVE A DRIVER'S LICENSE.

The General Assembly of North Carolina enacts:

Section 1. Article 20 of G.S. Chapter 20 is amended by adding a new 
section to read as follows:

"§ 20-7.2. Issuance of license to person with 90-day failure.—(a) Upon receipt 
of a conviction report entered pursuant to the 90-day failure provision of G.S. 
20-24(c), the division shall not issue a driver's license to the party named in the 
conviction report until he complies with the provisions of this section and is 
otherwise eligible to receive a license.

(b) A party who appears before the court within 12 months of the entry of a 
90-day failure may comply with this section by paying the costs of court as 
specified in G.S. 7A-304 or by appearing to answer the charge and complying 
with any order entered by the court. A party who appears before the court to 
comply with the provisions of this section more than 12 months after the entry 
of the 90-day failure must pay the court costs as specified in G.S. 7A-304, unless 
the court finds that the defendant has shown good cause for his failure to 
appear to answer the charge during the period from his originally scheduled 
court appearance to the present; upon such a finding, a party may comply with 
this section by appearing to answer the charge, and complying with any order 
entered by the court. This subsection does not, however, authorize a judge to set 
aside a conviction for a 90-day failure unless the order to set aside the 
conviction is consistent with G.S. 20-24(c).

(c) As used in this section, the phrase 'issue a driver's license' means the 
issuing of an original or duplicate license, renewals of existing licenses, or 
restorations of licenses that have previously been revoked.

(d) The Administrative Office of the Courts shall promulgate forms for clerks 
of court to certify to the division that a licensee has complied with the 
provisions of this section. The Commissioner may adopt regulations necessary 
to carry out the provisions of this section.

(e) In determining who is eligible to receive a license, the division shall not 
consider any conviction for a failure to appear occurring before October 1, 
1981."

Sec. 2. G.S. 7A-304 is amended by adding a new subsection (a1) to read as 
follows:

"(a1) The costs assessed pursuant to subsection (a) may also be collected by 
clerks of court for charges in which a party elects to pay the court's costs to 
satisfy the requirements of G.S. 20-7.2. Costs collected pursuant to this 
subsection shall be allocated in the same manner as other costs collected 
pursuant to this section. If a party elects to pay the costs of court to satisfy the 
requirements of G.S. 20-7.2 and is subsequently adjudged guilty of the same 
charge by the court, he shall not be required to pay the costs of court again for 
that charge, but he is subject to any other orders of the court, including an order 
to pay a fine."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of 
July, 1981.
CHAPTER 897  Session Laws—1981

S. B. 483  CHAPTER 897
AN ACT TO WAIVE TUITION AND REGISTRATION FEES FOR TRAINEES ENROLLED IN COURSES UNDER THE NEW AND EXPANDING INDUSTRY PROGRAM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115D-5(b) is amended on line 15 by inserting after the word and punctuation "centers," the following:

"trainees enrolled in courses conducted under the New and Expanding Industry Program,"

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 9th day of July, 1981.

S. B. 718  CHAPTER 898
AN ACT TO AUTHORIZE SANITARY DISTRICTS TO ACQUIRE, CONSTRUCT, MAINTAIN AND OPERATE SEWAGE COLLECTION AND DISPOSAL SYSTEMS, WATER SUPPLY SYSTEMS, WATER PURIFICATION OR TREATMENT PLANTS AND OTHER UTILITIES TO PROVIDE SERVICE OUTSIDE THE CORPORATE LIMITS OF SUCH DISTRICTS AND TO VALIDATE PRIOR ACTIONS BY SUCH DISTRICTS WITH RESPECT TO SUCH FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-128 is amended by adding thereto a new subparagraph to read:

“(2a) To acquire, construct, maintain and operate sewage collection and disposal systems of all types, including septic tank systems or other on-site collection or disposal facilities or systems, water supply systems, water purification or treatment plants and such other utilities, within and without the corporate limits of the district, as may be necessary for the preservation of the public health and sanitary welfare outside the corporate limits of the district, within reasonable limitations, such utilities to be constructed, operated and maintained in accordance with rules and regulations promulgated by the Commission for Health Services."

Sec. 2. The authority granted to a sanitary district by the provisions of this act is to be considered to be supplemental to the authority granted to a sanitary district by other provisions of law.

Sec. 3. Actions heretofore taken by sanitary districts to acquire, construct, maintain and operate sewage collection and disposal systems of all types, water supply systems, water purification or treatment plants and other utilities within and without their respective corporate limits to provide service outside their respective corporate limits are hereby approved and validated.

Sec. 4. This act shall apply only in counties with a population of 70,000 or greater, as determined by the most recent decennial federal census.

Sec. 5. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 9th day of July, 1981.
H. B. 905  CHAPTER 899
AN ACT TO PROVIDE AN INDIVIDUAL INCOME TAX CREDIT FOR
CHILD-CARE AND OTHER EMPLOYMENT-RELATED EXPENSES.

The General Assembly of North Carolina enacts:

Section 1. Division II of Article 4 of Chapter 105 of the General
Statutes is hereby amended by:
(a) Repealing in its entirety G.S. 105-147(26);
(b) Adding thereto a new section, G.S. 105-151.7, reading as follows:

§ 105-151.7. Credit against personal income tax for child-care and certain
employment-related expenses.—(a) Any person who maintains a household
which includes as a member one or more qualifying individuals shall be allowed
as a credit against the tax imposed by this Division an amount equal to seven
percent (7%) of the employment-related expenses as defined in subdivision b.2.
herein. The employment-related expenses on which the credit is computed shall
not exceed four thousand dollars ($4,000) during any one taxable year.

In the case of such expenses for services outside the taxpayer’s household
incurred for the care of a qualifying individual described in b.1., below, the
amount on which the credit is computed during any one taxable year shall not
exceed two thousand dollars ($2,000) per qualifying individual, subject,
however, to the four thousand dollar ($4,000) limitation set out above.

(b) For the purposes of this section:
1. The term ‘qualifying individual’ means:
   1. A dependent of the taxpayer who is under the age of 15 and with
      respect to whom the taxpayer is entitled to a deduction under G.S.
      105-149(5);
   II. A dependent of the taxpayer who is physically or mentally incapable
      of caring for himself; or
   III. The spouse of the taxpayer, if the spouse is physically or mentally
      incapable of caring for himself or herself.
2. The term ‘employment-related expenses’ means amounts paid for
   expenses for household service and for the care of a qualifying
   individual, but only if such expenses are incurred to enable the taxpayer
to be gainfully employed.
3. 1. For the purposes of this section, an individual shall be treated as
   maintaining a household for any period only if over half of the cost of
   maintaining the household during such period is furnished by such
   individual.
   II. In the case of a married person living with his or her spouse and such
   spouse is maintaining the household, the credit provided for herein
   shall be allowed with respect to employment-related expenses in
   connection with any qualifying individuals, except as limited herein,
of the spouse not maintaining the household.
4. If a child (as defined in G.S. 105-149(a)(5) who is under the age of 15 or
   who is physically or mentally incapable of caring for himself receives
   over half of his support during the calendar year from his parents who
   are divorced or separated with the intent to remain separate and apart,
and such child is in the custody of one or both of his parents for more
than one-half of the calendar year, in the case of any taxable year
beginning in such calendar year such child shall be treated as being a
qualifying individual described in subparagraph I. or II. of subdivision b.1., as the case may be, with respect to that parent who has custody for a longer period during such calendar year than the other parent, and shall not be treated as being a qualifying individual with respect to such other parent.

(c) 1. If the taxpayer is married and living with his spouse for any period during the taxable year, there shall be taken into account employment-related expenses incurred during any month of such period only if:
   I. Both spouses are gainfully employed on a substantially full-time basis, or one spouse is gainfully employed on a substantially full-time basis and the other spouse is a full-time student, which shall mean an individual who during each of five calendar months during the taxable year is a full-time student at an educational institution, or
   II. The spouse is a qualifying individual described in subdivision b.1.III.

   2. No credit shall be allowed under this section with respect to any amount paid by the taxpayer to an individual with respect to whom a deduction is allowable under G.S. 105-149(5) to the taxpayer or his spouse, or who is a child of the taxpayer (within the meaning of G.S. 105-149(a)(5)) who has not attained the age of 19 at the close of the taxable year.

   3. In the case of employment-related expenses incurred during any taxable year solely with respect to a qualifying individual (other than an individual who is also described in subdivision b.1.I.), the amount of such expenses which may be taken into account for purposes of this section shall be reduced:

   I. If such individual is described in subdivision b.1.II., by the amount by which the sum of:
      A. Such individual's adjusted gross income for such taxable year, and
      B. The disability payments received by such individual during such year, exceed one thousand dollars ($1,000), or
   II. In the case of a qualifying individual described in subdivision b.1.III., by the amount of disability payments received by such individual during the taxable year.

   For purposes of this paragraph, the term 'disability payment' means a payment (other than a gift) which is made on account of the physical or mental condition of an individual and which is not included in gross income.

(d) If a husband and wife are living together at the end of the taxable year, no credit under this section shall be allowed unless they file a combined return for the year.

(e) No credit shall be allowed under this section unless the taxpayer completes and attaches to his return the necessary form or forms as may be required by the Secretary of Revenue, nor shall any deduction be allowed under G.S. 105-147(11) for amounts claimed under this subdivision.

(f) The credit allowed by this section shall not exceed the amount of tax imposed by this division for the taxable year reduced by the sum of all credits allowable under this division, except for payments of tax made by or on behalf of the taxpayer.

(g) No credit shall be allowed under this section with respect to employment-related expenses paid by a nonresident of this State."
Sec. 2. This act shall become effective for income tax years beginning on and after January 1, 1981.

In the General Assembly read three times and ratified, this the 9th day of July, 1981.

H. B. 1228    CHAPTER 900

AN ACT TO SET A DEFINITE EXECUTION DATE FOR PERSONS SENTENCED TO DEATH.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15-194 is rewritten to read:

"§ 15-194. Time for execution.—Whenever the Supreme Court has filed an opinion upholding the sentence of death, or a stay of execution granted by any competent judicial tribunal or proceeding has expired or been terminated, or a reprieve by the Governor has expired or been terminated, a hearing shall be held in a superior court anywhere within the district where the case was tried to fix a new date for the execution of the original sentence. The district attorney shall promptly calendar such hearing. The condemned person shall be present at the hearing unless the condemned person has an attorney appearing at the hearing. The judge shall set the date of execution for not less than 60 days nor more than 90 days from the date of the hearing. The hearing may be conducted, whether or not in session, by any regular or special superior court judge resident in the district or assigned to hold court in the district wherever the case is docketed. The order fixing the date shall be recorded in the minutes of the court, and the clerk of the superior court shall immediately send a certified copy to the Warden of the State Penitentiary, at Raleigh. The clerk shall also send certified copies to the condemned person, the condemned person’s attorney, and the district attorney who prosecuted the case."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of July, 1981.

H. B. 1332    CHAPTER 901

AN ACT TO PROVIDE MILITARY RECRUITER ACCESS TO SCHOOL RECORDS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 115C of the General Statutes as it appears in Chapter 423 of the 1981 Session Laws is amended by adding a new subsection to G.S. 115C-47 to read:

"(z) If a local board of education provides access to its buildings and campus and the student information directory to persons or groups which make students aware of occupational or educational options, the local board of education shall provide access on the same basis to official recruiting representatives of the military forces of the State and of the United States for the purpose of informing students of educational and career opportunities available in the military."

Sec. 2. G.S. 115D-20 is amended by adding a new subdivision to read:

"(8) If a board of trustees of an institution provides access to its buildings and campus and the student information directory to persons or groups which make
CHAPTER 901  Session Laws—1981

students aware of occupational or educational options, the board of trustees shall provide access on the same basis to official recruiting representatives of the military forces of the State and of the United States for the purpose of informing students of educational and career opportunities available in the military."

Sec. 3. Chapter 116 of the General Statutes is amended by adding a new section to read:

"§ 116-33.1. Board of trustees to permit recruiter access.—If a board of trustees provides access to its buildings and campus and the student information directory to persons or groups which make students aware of occupational or educational options, the board of trustees shall provide access on the same basis to official recruiting representatives of the military forces of the State and of the United States for the purpose of informing students of educational and career opportunities available in the military."

Sec. 4. This act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 9th day of July, 1981.

H. B. 1344  CHAPTER 902

AN ACT TO MAKE TECHNICAL CORRECTIONS TO CHAPTER 626 OF THE 1981 SESSION LAWS AND THE SPEEDY TRIAL LAW.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 626 of the 1981 Session Laws is rewritten to read as follows:

"Sec. 2. G.S. 15A-701(a)(3) is amended by adding 'or a finding of no probable cause pursuant to G.S. 15A-612' between 'G.S. 15A-703' and the comma on line 1 of the subdivision."

Sec. 2. G.S. 15A-701(b)(12), as enacted by Chapter 626 of the 1981 Session Laws, is amended by deleting the words "is dismissed pursuant to" as they appear in the subdivision.

Sec. 3. G.S. 15A-701(a1)(3) is amended by deleting the comma that appears immediately following the statutory reference "G.S. 15A-703".

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of July, 1981.

H. B. 1345  CHAPTER 903

AN ACT TO MAKE A TECHNICAL AMENDMENT IN CHAPTER 500 OF THE 1981 SESSION LAWS.

The General Assembly of North Carolina enacts:

Section 1. Article 5B of Chapter 90 of the General Statutes as enacted by Chapter 500, Session Laws of 1981, is amended by deleting the following words and figures which appear as the last sentence of G.S. 90-113.19(b) and inserting the same words and figures as the last sentence of G.S. 90-113.18(c):

"However, delivery of drug paraphernalia by a person over 18 years of age to someone under 18 years of age who is at least three years younger than the defendant shall be punishable as a Class I felony."

Sec. 2. This act is effective upon ratification.
Session Laws—1981   CHAPTER 904

In the General Assembly read three times and ratified, this the 9th day of July, 1981.

H. B. 650   CHAPTER 904
AN ACT TO BE CALLED THE ARCHAEOLOGICAL RESOURCES PROTECTION ACT.

The General Assembly of North Carolina enacts:

Section 1. The title of Chapter 70 of the General Statutes is amended to read, "Indian Antiquities, Archaeological Resources and Unmarked Human Skeletal Remains Protection."

Sec. 2. A new Article is added to Chapter 70 of the General Statutes to read:

"ARTICLE 2.

"Archaeological Resources Protection Act.

"§ 70-5.1. Short title.—This Article shall be known as ‘The Archaeological Resources Protection Act.’

"§ 70-5.2. Findings and purpose.—(a) The General Assembly finds that:

(1) archaeological resources on State lands are an accessible and irreplaceable part of the State’s heritage;

(2) these resources are increasingly endangered because of their commercial attractiveness;

(3) existing State laws do not provide adequate protection to prevent the loss and destruction of these archaeological resources and sites resulting from uncontrolled excavations and pillage; and

(4) there is a wealth of archaeological information which has been legally obtained by private individuals for noncommercial purposes and which could voluntarily be made available to professional archaeologists and institutions.

(b) The purpose of this Article is to secure, for the present and future benefit of the people of North Carolina, the protection of archaeological resources and sites which are on State lands, excluding highway right-of-ways, and to foster increased cooperation and exchange of information among governmental authorities, the professional archaeological community, Indian Tribal governmental authorities and private individuals having collections of archaeological resources and data.

"§ 70-5.3. Definitions.—As used in this Article, unless the context clearly indicates otherwise:

(1) 'Archaeological investigation' means any surface collection, subsurface tests, excavation, or other activity that results in the disturbance or removal of archaeological resources.

(2) 'Archaeological resource' means any material remains of past human life or activities which are at least 50 years old and which are of archaeological interest, including pieces of pottery, basketry, bottles, weapons, weapon projectiles, tools, structures or portions of structures, rock paintings, rock carvings, intaglios, graves or human skeletal materials. Paleontological specimens are not to be considered archaeological resources unless found in an archaeological context.
(3) 'State lands' means any lands owned, occupied, or controlled by the State of North Carolina, with the exception of those lands under short term lease solely for archaeological purposes, excluding highway right-of-ways.

"§ 70-5.4. Archaeological investigations.—(a) Any person may apply to the Department of Administration for a permit to conduct archaeological investigations on State lands. The application shall contain information the Department of Administration, in consultation with the Department of Cultural Resources, deems necessary, including the time, scope, location and specific purpose of the proposed work.

(b) A permit shall be issued pursuant to an application under subsection (a) of this section if, after any notifications and consultations required by subsection (d) of this section, the Department of Administration, in consultation with the Department of Cultural Resources, finds that:

(1) the applicant is qualified to carry out the permitted activity;

(2) the proposed activity is undertaken for the purpose of furthering archaeological knowledge in the public interest;

(3) the currently available technology and the technology the applicant proposes to use are such that the significant information contained in the archaeological resource can be retrieved;

(4) the funds and the time the applicant proposes to commit are such that the significant information contained in the archaeological resources can be retrieved;

(5) the archaeological resources which are collected, excavated or removed from State lands and associated records and data will remain the property of the State of North Carolina and the resources and copies of associated archaeological records and data will be preserved by a suitable university, museum, or other scientific or educational institution;

(6) the activity pursuant to the permit is not inconsistent with any management plan applicable to the State lands concerned; and

(7) the applicant shall bear the financial responsibility for the reinterment of any human burials or human skeletal remains excavated or removed as a result of the permitted activities.

(c) A permit may contain any terms, conditions or limitations the Department of Administration, in consultation with the Department of Cultural Resources, deems necessary to achieve the intent of this Article. A permit shall identify the person responsible for carrying out the archaeological investigation.

(d) If a permit issued under G.S. 70-5.4(a) may result in harm to, or destruction of, any religious or cultural site, as determined by the Department of Administration, in consultation with the Department of Cultural Resources, before issuing such permit, the Department of Administration, in consultation with the Department of Cultural Resources, shall notify and consult with, insofar as possible, a local representative of an appropriate religious or cultural group. If the religious or cultural site pertains to Native Americans, the Department of Administration, in consultation with the Department of Cultural Resources, shall notify the Executive Director of the North Carolina Commission of Indian Affairs. The Executive Director of the North Carolina Commission of Indian Affairs shall notify and consult with the Eastern Band of
Cherokee or other appropriate tribal group or community. Such notification shall include, but not be limited to, the following:

(1) the location and schedule of the forthcoming investigation;
(2) background data concerning the nature of the study; and
(3) the purpose of the investigation and the expected results.

(e) A permit issued under G.S. 70-5.4 may be suspended by the Department of Administration, in consultation with the Department of Cultural Resources, upon the determination that the permit holder has violated any provision of G.S. 70-5.6(a) or G.S. 70-5.6(b). A permit may be revoked by the Department of Administration, in consultation with the Department of Cultural Resources, upon assessment of a civil penalty under G.S. 70-5.7 against the permit holder or upon the permit holder’s conviction under G.S. 70-5.6.

“§ 70-5.5. Rule-making authority; custody of resources.—The North Carolina Historical Commission, in consultation with the Department of Administration, may promulgate regulations to implement the provisions of this Article and to provide for the exchange, where appropriate, between suitable universities, museums, or other scientific or educational institutions, of archaeological resources removed from State lands pursuant to this Article, and the ultimate disposition of those resources.

“§ 70-5.6. Prohibited acts and criminal penalties.—(a) No person may excavate, remove, damage or otherwise alter or deface any archaeological resource located on State lands unless he is acting pursuant to a permit issued under G.S. 70-5.4.

(b) No person may sell, purchase, exchange, transport, receive, or offer to sell, purchase, exchange, transport or receive any archaeological resource excavated or removed from State lands in violation of the prohibition contained in G.S. 70-5.6(a).

(c) Any person who knowingly and willfully violates or employs any other person to violate any prohibition contained in G.S. 70-5.6(a) or G.S. 70-5.6(b) shall upon conviction, be fined not more than two thousand dollars ($2,000) or imprisoned not more than six months, or both, in the discretion of the court.

(d) Each day on which a violation occurs shall be a separate and distinct offense.

“§ 70-5.7. Civil penalties.—A civil penalty of not more than five thousand dollars ($5,000) may be assessed by the Department of Administration, in consultation with the Department of Cultural Resources, against any person who violates the provisions of G.S. 70-5.6. In determining the amount of the penalty, the Department shall consider the extent of the harm caused by the violation and the cost of rectifying the damage. Any person assessed shall be notified of the assessment by registered or certified mail. The notice shall specify the reasons for the assessment. If the person assessed fails to pay the amount of the assessment to the Department within 30 days after receipt of notice, the department may institute a civil action in the Superior Court of Wake County to recover the amount of the assessment. In the civil action, the scope of the court’s review of the Department’s action, including the amount of the assessment, shall be as provided in Chapter 150A of the General Statutes.

The Department may use the assessed funds to rectify the damage to archaeological resources or to otherwise effectuate the purposes of this Article.

“§ 70-5.8. Forfeiture.—All archaeological resources with respect to which a violation of G.S. 70-5.6(a) or G.S. 70-5.6(b) occurred, and all vehicles and
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equipment which were used in connection with such violation shall be subject
to forfeiture to the State of North Carolina in the same manner as vehicles and
equipment subject to forfeiture under G.S. 90-112.

“§ 70-5.9. Confidentiality.—Information concerning the nature and location
of any archaeological resource, regardless of the ownership of the property, may
be made available to the public under Chapter 132 of the North Carolina
General Statutes or under any other provision of law unless the Department of
Cultural Resources determines that the disclosures would create a risk of harm
to such resources or to the site at which such resources are located.

“§ 70-5.10. Cooperation with private individuals.—The Department of
Cultural Resources shall take any action necessary, consistent with the
purposes of this Article, to foster and improve the communication, cooperation,
and exchange of information between:

(a) private individuals having collections of archaeological resources and data
which were obtained through legal means, and

(b) professional archaeologists and associations of professional archaeologists
concerned with the archaeological resources of North Carolina and of the
United States.

“§ 70-5.11. Delegation of responsibilities.—If the Department of
Administration and the Department of Cultural Resources agree, the
responsibilities, in whole or in part, of the Department of Cultural Resources
under this Article may be delegated through a memorandum of understanding
to the Department of Administration. Such a memorandum of understanding
will be subject to periodic review at the initiation of either party to the
memorandum.”

Sec. 3. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 9th day of
July, 1981.

S. B. 746  CHAPTER 905
AN ACT CONCERNING REACQUISITION OF RESIDENT TUITION
STATUS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 116-143.1 is hereby amended by adding thereto a new
subsection (1) to read as follows:

“(1) Any person who ceases to be enrolled at or graduates from an institution
of higher education while classified as a resident for tuition purposes and
subsequently abandons North Carolina domicile shall be permitted to reenroll
at an institution of higher education as a resident for tuition purposes without
necessity of meeting the 12-month durational requirement of this section if the
person reestablishes North Carolina domicile within 12 months of
abandonment of North Carolina domicile and continuously maintains the
reestablished North Carolina domicile at least through the beginning of the
academic term(s) for which in-State tuition status is sought. The benefit of this
subsection shall be accorded not more than once to any one person.”

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 9th day of
July, 1981.

1342
H. B. 1279  

CHAPTER 906

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE CITY OF LEXINGTON AND TO REPEAL PRIOR LOCAL ACTS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Lexington is hereby revised and consolidated to read as follows:

"THE CHARTER OF THE CITY OF LEXINGTON.

"ARTICLE I. INCORPORATION, CORPORATE POWERS AND BOUNDARIES.

"Sec. 1.1. Incorporation. The City of Lexington, North Carolina in the County of Davidson and the inhabitants thereof, shall continue to be a municipal body politic and corporate, under the name and style of the City of Lexington, hereinafter at times referred to as the 'City'.

"Sec. 1.2. Powers. The City of Lexington shall have and may exercise all of the powers, duties, rights, privileges and immunities which are now or hereafter may be conferred, either expressly or by implication, upon the City of Lexington specifically or upon municipal corporations generally by this Charter, by the State Constitution, or by general or local law.

"Sec. 1.3. Corporate Limits. (a) The corporate limits of the City of Lexington shall be as follows:

BEGINNING at an iron stake in the City Limits line and the north Right of Way of Biesecker Road, said stake being the southwest property corner of Pickett School and the southeast property corner of St. Andrews Church and running west along the north Right of Way of Biesecker Road and following the property boundary and the existing City Limits as follows: S. 89° 27' W. 120.5'; thence N. 89° 47' 39" W. 470.39'; thence N. 8° 00' W. 430.54'; thence N. 86° 59' E. 631.39'; thence N. 1° 40' W. 483.83'; thence S. 85° 55' E. 527.70' to a concrete marker in the west Right of Way of Mize Road; thence N. 3° 28' W. 890' more or less to an iron stake the southeast property corner of Jimmy W. Barber, Deed Book 558, Page 437 and the northeast property corner of Howard E. Wray; thence with the south property line of Jimmy W. Barber and the northeast property line of Howard E. Wray N. 80° 03' W. 240.36' to an iron stake the southeast property corner of Whitesmith Estates as shown on Plat Book 14, Page 44 and being the southeast property corner of Lot 33; thence with the south property boundary line of Whitesmith Estates N. 65° 02' W. 764.75'; thence N. 80° 57' W. 989.91'; thence N. 3° 19' E. 966.5' to an iron stake the northwest property corner of Whitesmith Estates and the southwest property corner of Northside Development Company, Inc. as shown on Plat Book 14, Page 16 and following the boundary lines of Northside Development Company, Inc. the following courses and distances: N. 3° 19' E. 1900'; thence S. 70° 52' E. 826.97'; thence S. 86° 19' E. 1142.70'; thence S. 1° 30' W. 476.20'; thence S. 3° 07' E. 1732.70'; thence S. 3° 24' W. 403.95' to an iron stake in the north Right of Way of Walser Road (SR 1412); thence S. 1° 36' E. 285' to an iron stake in the south property line of Map of Sunset Knolls, Plat Book 9, Page 79 and the north property line of Map of Choyce Acres, Plat Book 13, Page 1 and running S. 86° 20' E. 409.51'; thence S. 21° 39' W. 255.93'; thence S. 4° 10' W. 750' to a stake in the north Right of Way of Price Road; thence S. 85° 34' E. 210'; thence N. 4° 10' E. 750'; thence S. 85° 34' E. 300'; thence S. 4° 10' W. 810'; thence S. 85° 34' E. 899.40'; thence S. 21° 11' W. 156.64'; thence N. 85° 34' W. 1003.78'; thence S. 4°
10' W. 796.85' more or less to the south Right of Way of Biesecker Road; thence along the south Right of Way of Biesecker Road S. 87° 47' E. 194'; thence with the west property line of the City of Lexington Fire Station #3 N. 3° 00' E. 430.7'; thence S. 87° 00' E. 235.00'; thence S. 3° 00' W. 430.7'; thence along the south Right of Way of Biesecker Road S. 87° 47' E. 530' to the northeast property corner of the Frank Ix Company; thence with the Railroad Right of Way N. 3° 36' W. 60'; thence S. 86° 24' E. 100'; thence S. 3° 47' W. 60'; thence S. 87° 16' E. 980' along the south Right of Way of Biesecker Road to a stake in the east Right of Way of Highway 52, said stake being the northwest property corner of Map of Grimes Park, Plat Book 5, Page 78; thence S. 87° 16' E. 753.40' to a stake in the center line of Dallas Street; thence N. 2° 15' E. 86'; thence S. 87° 16' E. 120'; thence N. 2° 15' E. 38.8' to a stake in the northwest property corner of Lot #60 as shown on said map; thence with the north property line of Lot #60 S. 87° 45' E. 150' to a stake in the west Right of Way of White Street; thence west along said Right of Way S. 2° 15' W. 75' to a stake in the southeast property corner of Lot 58; thence along the north property line of Lot 139 S. 87° 45' E. 190' to the stake the northeast property corner of Lot 139 as shown on Map of Grimes Park, Plat Book 5, Page 78; thence S. 1° 20' W. 1750' more or less to a stake in the north property line of Lot 89 as shown on map of Forest Hills Section Three, Plat Book 6, Page 83; thence running with the north property line of Lot 89 S. 85° 06' E. 181.7' to an iron stake in the west Right of Way of Spring Drive; thence along the west Right of Way of Spring Drive N. 34° 34' E. 245.8' to an iron stake the northeast property corner of Lot 99 and the southwest property corner of Lot 100; thence crossing Spring Drive and running along the north property line of Lot 155 S. 55° 26' E. 240' to an iron stake the northeast property corner of Lot 155 thence S. 34° 34' W. 225' to a stake in the line of Lot 164 and being the southeast property corner of Lot 163; thence with the north property line of Lot 164 S. 55° 26' E. 35' to an iron stake the northeast property corner of Lot 164; thence S. 34° 34' W. 140' to a stake in the northeast Right of Way of Eleventh Street Extension and being the southeast property corner of Lot 479 as shown on map of Westover Heights, Plat Book 5, Page 34; thence along the south property line of Lot 479 and the north property line of Lot 478 S. 88° 40' W. 221.7' to an iron stake the southwest property corner of Lot 479 and the northwest property corner of Lot 478 thence S. 1° 20' W. 265' to the northeast property corner of Lot 425 and the northwest property corner of Lot 468, Plat Book 5, Page 34; thence N. 88° 40' E. 30'; thence S. 1° 20' W. 125'; thence S. 88° W. 30'; thence S. 1° 20' E. 225'; thence S. 37° 30' E. 120' to the property line of Plat Book 5, Page 34; thence with the east boundary of Jefferson Village N. 29° 22' E. 780.25' to a stake in the southeast boundary of Northview Heights as shown on Plat Book 10, Page 17 and being the southwest property corner of Lot 1, Block A and said plat map; thence northeast 200' to a stake in the north Right of Way of Upton Street and being the southwest property corner of Lot 11, Block D; thence along the west property line of Lot 11, Block D 201.69' to a stake in the northwest property corner of Lot 11 and in the west property boundary of Northview Heights; thence N. 34° 34' E. 185.87' to an iron stake the northwest property corner of Lot 17; thence S. 55° 28' E. 50' to an iron stake; thence N. 34° 34' E. 93.86' to an iron stake the northeast property corner of Lot 21; thence southeast along the east property line of Lot 22 65' to an iron stake the northwest property corner of Lot 23; thence northeast along the west property line of Lots 23 - 39, Block D 425' to a stake.
the northeast property of Lot 39, 210' to a stake in the north Right of Way of Upton Street; thence along the north Right of Way of Upton Street 175'; thence southeast 200' along the southwest property line of Lot 14, Block C to a stake the southwest property corner of Lot 14, Block C; thence northeast 45' to a stake in the west Right of Way line of Northview Drive; thence northeast 55' to a stake in the east Right of Way line of Northview Drive the southwest property corner of Lot 23, Block B; thence N. 88° 23' E. 150' to a stake the southeast property corner of Lot 23 and in the west property line of Robert L. Grubb; thence along the west property line of Robert L. Grubb and the east boundary of Northview Heights N. 1° 37' E. 1400' to a stake the northeast property corner of Northview Heights; thence with the boundary of the property of Robert L. Grubb N. 85° 30' E. 1463.88'; thence S. 5° 15' W. 1795.20'; thence S. 48° 30' E. 906.18' to a stake in the north Right of Way of Old Greensboro Road; thence S. 38° 03' W. 155.53' to a stake in the west Right of Way of Monroe Drive; thence along the north Right of Way of Old Greensboro Road S. 33° 15' W. 200.25' to an iron stake; thence with the west boundary line of Jefferson Village N. 55° 22' W. 1002.90'; thence S. 4° 20' W. 688.3'; thence S. 26° 31' E. 273.2' to an iron stake the northeast property corner of Jason Conrad; thence S. 62° 36' W. 184.85'; thence along the east Right of Way of Ninth Street Extension S. 27° 06' E. 623.4' to a stake in the north Right of Way of Old Greensboro Road; thence east along the north Right of Way of Old Greensboro Road 585' to the southwest property corner of Omar G. Hilton; thence with the west property corner of Omar G. Hilton N. 28° W. 425'; thence S. 64° W. 100'; thence S. 28° E. 425' to a stake in the north Right of Way of Old Greensboro Road; thence along the north Right of Way of Old Greensboro Road N. 66° 16' E. 243.27'; thence N. 51° 15' E. 100.39'; thence N. 44° 53' E. 90.04'; thence N. 38° 33' 40" E. 91.03'; thence with the east Right of Way of Fairground Road S. 50° 30' E. 500' to an iron stake the northwest property corner of Southland Investments; thence N. 45° E. 188'; thence S. 54° 30' E. 112'; thence N. 50° 30' E. 220'; thence N. 35° E. 480'; thence S. 80° E. 115'; thence N. 5° 00' E. 85'; thence with the north property line of Piedmont Animal Hospital S. 84° 15' W. 298'; thence along the east property line of Piedmont Animal Hospital S. 22° 00' W. 468.7' to a stake in the north Right of Way of 29 and 70; thence along the north Right of Way of 29 and 70 S. 68° W. 850' more or less to a stake in the east Right of Way of Fairground Road; thence S. 50° 30' E. 270' to an iron stake in the south Right of Way of 29 and 70 and the northwest property corner of Eastern Development Company; thence along the north Right of Way of 29 and 70 S. 35° 06' W. 211.55' to an iron stake the northeast property corner of Davis Chevrolet; thence S. 54° 54' E. 459.58' to an iron stake the southeast property corner of Davis Chevrolet and the northeast property corner of Theodore Leonard; thence S. 54° 54' E. 280' more or less to an iron stake in the north property line of Mallory Battery; thence with the west property line of Mallory Battery S. 13° 44' W. 900' more or less to an iron stake in the southwest Right of Way of U.S. 64; thence along the west Right of Way of U.S. 64 S. 64° 06' E. 294' to a concrete Right of Way Marker; thence S. 53° 16' E. 442.49' to an iron stake the northwest property corner of Mrs. J. R. Swing and the northeast property corner of Lexington Motor Company; thence along the east property line of Lexington Motor Company S. 36° 44' W. 514.50' to an iron stake; thence N. 53° 16' W. 1950' more or less to the northwest property corner of Mrs. J. R. Swing and the southwest property corner of Theodore Leonard; thence S. 22°
07° W. 393.8'; thence N. 58° 22' W. 188.5'; thence N. 78° 47' E. 148'; thence N. 28° 29' W. 47.25' to an iron stake the northwest property corner of Mrs. J. R. Swing and the southeast property corner of Piedmont Business Corporation; thence along the north property line of Mrs. J. R. Swing S. 44° 35' W. 500' more or less; thence S. 37° 30' E. 1950' more or less to a stake the northwest property corner of Lot 33, Block G as shown on map of Lexington Heights, Plat Book 3, Page 39; thence N. 65° 05' E. 150' to a stake the northeast property corner of Lot 27; thence S. 24° 55' E. 190' to a stake the southeast property corner of Lot 27; thence S. 65° 05' E. 80' to a stake in the south Right of Way of Adams Street; thence S. 37° 30' E. 3000' more or less to a stake in the south property line of Lot 56 as shown on map of Craver Heights, Plat Book 5, Page 47, said stake being 55' east of the southwest property corner of Lot 55, thence with the south boundary line of Craver Heights N. 59° 30' E. 582' to a stake on the west bank of Darr Branch and being the southeast property corner of Lot 20 as shown on Plat Book 5, Page 47; thence running with the south property line of Lot 20 as shown on map of Highland Park, Plat Book 12, Page 71 and being the north property line of Charles Glenn James and following the boundary lines of Charles Glenn James, formerly the property of Essenge, Inc, as described in Deed Book 576, Page 932 as follows: N. 73° 15' E. 497.5' to a pine, the southeast property corner of Lot 21 as shown on Plat Book 12, Page 71; thence N. 20° 30' W. 489'; thence N. 83° 05' E. 20'; thence N. 6° 55' W. 326.9' to an iron stake the southwest property corner of D. J. Crotts, Jr.; thence S. 84° 00' E. 261.7' to an iron stake and being the southwest property corner of a 60' road and running on the west property line of said road N. 7° 45' W. 635' to a stake in the south Right of Way of Holly Grove Road and being the northwest property corner of Charles Glenn James; thence running with the south Right of Way of Holly Grove Road N. 67° E. 60' to a stake the northeast property corner of Charles Glenn James; thence S. 7° 20' W. 635' to an iron stake the southwest property corner of Gilmer Crotts and in the north property line of Charles Glenn James; thence with the north property line of Charles Glenn James and the south property line of Gilmer Crotts S. 84° 00' E. 200.20'; thence S. 84° 22' E. 197.9' to a stone; thence S. 85° 51' E. 312.6' to a stone; thence S. 27° 05' E. 317.2' to a stone on the west bank of Abbotts Creek and being the southeast property corner of Charles Glenn James and the southwest property corner of John B. Eanes et als; thence running with Abbotts Creek as it meanders in a southwest direction 1985' more or less to the intersection of Darr Branch; thence with the south property line of Dwight Wrenn S. 59° W. 426' more or less to a point on the north side of Sunnyside Drive; thence S. 37° 30' W. 1170' more or less to a stake in the southwest Right of Way of Highway 64; thence south along the west Right of Way of Highway 64 730' more or less to the southeast property corner of City of Lexington and the northeast property corner of C. W. Davis; thence with the southeast property line of the City of Lexington and the northwest property line of C. W. Davis S. 46° 04' W. 665' to an iron stake in the east property boundary line of Revision of Druid Hills and Darr Park, Plat Book 15, Page 12 and in the northeast property line of Lot 4, Block E and running with the boundary line as shown in Plat Book 15, Page 12, S. 45° 27' E. 200' to a concrete marker in the northwest property line of the City of Lexington Finch Park; thence S. 46° 04' W. 20' W. 682.07' to a stake in the east property boundary as shown on Map of Druid Hills Block A, Plat Book 10, Page 11 and running with the boundary line of Druid Hills N. 6° 32' E. 207.70'.
thence N. 83° 28' W. 150'; thence N. 6° 32' E. 50'; thence N. 83° 28' W. 50'; thence N. 6° 32' W. 150'; thence N. 83° 28' W. 662.5'; thence S. 55° 48' W. 290' to a stake the northeast property corner of Lot 44, Block A; thence S. 34° 12' E. 154' to a stake in the north Right of Way of Druid Hills Drive; thence along the north Right of Way of Druid Hills Drive S. 55° 22' W. 200' to a stake the southwest property corner of Lot 37; thence along the west property line of Lot 37 N. 34° 12' W. 152.2'; thence S. 55° 38' W. 75' to a stake the northwest property corner of Lot 34 and running S. 37° 30' W. 1000' more or less to a stake in the east property boundary of Lakewood Hills Subdivision Section One, Plat Book 9, Page 87; thence with the east boundary of Lakewood Hills Subdivision S. 16° 30' W. 858.4' to a stake the southeast property corner of Lot 38 as shown on Plat Book 9, Page 87 and the north property corner of Lot 148 as shown on Map of Lakewood Hills Subdivision Section Three, Plat Book 9, Page 89 and running with the north property boundary of Lakewood Hills Subdivision S. 82° 26' E. 1330' to the center of Abbotts Creek; thence with the center of Abbotts Creek as it meanders south 4,400' more or less to the southeast property line of Twin Acres Section Three and the northeast property line of Maggie H. Thomason; thence with the north property line of Maggie H. Thomason and the south property boundary of Twin Acres Section Three N. 86° 41' W. 2298'; thence S. 30° 22' W. to a stake in the west Right of Way of Country Club Drive; thence with the east Right of Way of Country Club Drive N. 23° 51' W. 400' to a stake in the south property line of Twin Acres No Two; thence N. 23° 51' W. 60' to a stake in the east Right of Way of Country Club Drive; thence along the north Right of Way of Twin Acres Drive Section One as shown on map of Plat Book 14, Page 54 S. 64° 19' W. 250' to a stake the southwest property corner of Lot 1 as shown on Plat Book 14, Page 52; thence with the west property line of Lot 1 N. 24° 21' W. 285.15' to a stake in the south property line of Hoyt Sink and in the north property boundary of Twin Acres Section One and being the northwest property corner of Lot 1 and running with the south property line of Hoyt Sink S. 71° 38' W. 266.25' to a stake the southwest property corner of Hoyt Sink and in the east property boundary of Country Club Estates; thence with the west property line of Hoyt Sink N. 5° 10' E. 309'; thence N. 15° 25' E. 220.75' to a stake in the center line of Country Club Circle; thence along the south property line of I. N. Hunt N. 80° W. 220' to a stake in the east property line of City of Lexington Golf Course; thence with the east property line of City of Lexington Golf Course S. 4° 30' E. 200' to a stake the southeast property corner of City of Lexington Golf Course; thence with the south property line of City of Lexington Golf Course W. 144' to a stake the northeast property corner of Don Blanton, being the northeast property corner of Lot 28 as shown on map of Country Club Acres Section Two, Plat Book 6, Page 56 and running with the east property line of Don Blanton S. 358.9' to a stake in the north Right of Way of Country Club Circle; thence with the north Right of Way of Country Club Circle 192.9' to a stake in the City of Lexington Golf Course and with the west property boundary line of Country Club Estates S. 11° 10' 50" E. 106.18'; thence S. 11° 10' 50" E. 830.31'; thence S. 02° 30' 40" E. 196.42'; thence S. 06° 27' W. 27.62'; thence S. 71° 31' 10" W. 220.13' to thence S. 06° 06' W. 807.64' to a concrete marker the southeast property corner of the City of Lexington Golf Course and the southwest property corner of Country Club Estates and in the north property boundary as shown on map of Country Club Estates Section Two, Plat Book 14, Page 53 and running S. 84° 05' E.
396.58' to a stake the southeast property corner of Lot 23 as shown on map of Country Club Estates Section Two and being the southwest property corner of Lot 9 as shown on map of Country Club Estates Section Two; thence along the west property boundary of Country Club Estates Section Two, Plat Book 14, Page 53 and running N. 58' E. 75'; thence S. 84° 05' E. 20'; thence N. 6° 58' E. 875.90'; thence S. 83° 02' E. 107.70' to a stake in the west property line of G. Arthur Thomason; thence with the west property line of G. Arthur Thomason and the east property boundary of Country Club Estates Section Two, Plat Book 14, Page 53 and running S. 18° 42' E. 386.88'; thence S. 49° 27' E. 274'; thence S. 32° 50' W. 232.80'; thence S. 28° 52' E. 282.96' to a stake in the north Right of Way of Country Club Drive; thence with the Fern Valley property boundary as described in Deed Book 22, Page 44 S. 31° 24' E. 902' to a 4" post oak; thence S. 05° W. 1452' to an iron stake; thence N. 38° 50' W. 909' to a 12" gum; thence W. 00° 1,739' to a rock; thence N. 00° 1283' to a rock in the south property line of Frank Holton, Jr.; thence with the south property line of Frank Holton, Jr. S. 84° 05' E. 514.88' to a concrete marker the southwest property corner of Country Club Estates; thence with the east property line of Frank Holton, Jr. and the west property line of Country Club Estates N. 6° 06' E. 277' to a concrete marker in the south boundary line of City of Lexington Golf Course; thence with the City of Lexington Golf Course and the north property line of Frank Holton, Jr. boundary line N. 83° 02' 01" W. 538.54'; thence N. 04° 11' 40" E. 276.51'; thence N. 84° 09' 20" W. 886.27'; thence N. 04° 21' 40" E. 274.51'; thence N. 40° 27' 00" E. 375'; thence N. 00° 21' 30" E. 492.00'; thence N. 60° 34' 20" W. 545.85'; thence N. 29° 09' 20" W. 534.00'; thence N. 27° 46' E. 171.35'; thence N. 00° 26' 10" W. 95.5' to a stake the southeast property corner of Alton Beck; thence along the south property of Alton Beck N. 83° 37' W. 235' to a stake in the west Right of Way of Fairview Drive; thence along the west Right of Way of Fairview Drive N. 6° 30' E. 130' to a stake; thence along the north property line of Alton Beck S. 84° 11' E. 231.5' to a stake the northeast property corner of Alton Beck and in the west property boundary of City of Lexington Golf Course; thence N. 00° 26' 01" W. 54' to a concrete marker; thence with the City of Lexington Golf Course boundary N. 22° 14' 00" E. 50.02' thence N. 13° 13' 10" E. 102.20'; thence N. 09° 27' E. 123.95' to an iron pipe near a cedar; thence N. 09° 32' 30" E. 204' to an iron stake the southeast property corner of G. F. Koonts; thence with the south property line of G. F. Koonts S. 89° 30' W. 195' to a stake in the east Right of Way of Fairview Drive; thence along the east Right of Way of Fairview Drive S. 6° 43' W. 225' to a stake; thence across Fairview Drive 60° more or less to the southeast property corner of Robert Lee Yarbrough, Deed Book 132, Page 168; thence with the south property line of Robert Lee Yarbrough and the west property line of Lot 1 as shown on map of G. F. Hankins property, Section One, Plat Book 4, Page 109 S. 85° 32' W. 600' to an iron stake the northwest property corner of Lot 1, Plat Book 1, Page 109 and the northeast property corner of the Lexington Housing Authority; thence with the property boundary lines of Lexington Housing Authority S. 7° 14' W. 582.84' thence N. 84° 18' W. 166.2'; thence S. 7° 14' W. 600'; thence S. 3° 29' W. 279.56'; thence N. 83° 23' W. 398.82'; thence N. 1° 02' W. 915.69'; thence S. 87° 42' W. 1395.11' to a stake on the east side of Cotton Grove Road, said stake being the southwest property corner of Lexington Housing Authority; thence S. 87° 27' W. 60' to a stake in the west Right of Way line of Cotton Grove Road and being the southeast property
corner of Lot 36 as shown on map of C. U. G. Biesecker Estate, Plat Book 9, Page 28 and being the southeast property corner of Warren J. Koonts, Jr.; thence with the south property line of Warren J. Koonts, Jr. N. 80° 0' W. 231.66' to a stake the southwest property corner of Lot 65 as shown on Plat Book 9, Page 28; thence along the west Right of Way of Lot 65 N. 4° 55' W. 133.5' to a stake in the south Right of Way line of Charles Avenue and being the northwest property corner of Lot 65; thence along the north property line of Warren J. Koonts, Jr. and the south Right of Way of Charles Avenue N. 86° 20' E. 225' to a stake in the west Right of Way of N. C. #8 (Cotton Grove Road); thence with the west Right of Way of Cotton Grove Road N. 3° 33' W. along the west Right of Way line of the Cotton Grove Road 243.5' to an iron stake in said Right of Way line; thence N. 6° 03' W. along the west Right of Way line of the Cotton Grove Road 270.7' to an iron stake in said Right of Way line; thence N. 4° 01' W. along the west Right of Way line of the Cotton Grove Road 600' more or less to a point in said Right of Way, said point of property of Foy and Shemwell and recorded in Plat Book 2, Page 33, in Register of Deeds Office in Davidson County, thence N. 87° 0' W. 10', more or less, to a new corner; thence N. 5° 0' W. along a new line, and said new line being 10' west at each point of the west Right of Way of a 60' Right of Way of the Cotton Grove Road, and said line to cross a part of Lot No 1 and to cross the front of part of lots 2,3,4,5 and 6 and said lots being shown on map of property of Foy and Shemwell and recorded in Plat Book 2, Page 33, in Register of Deeds Office in Davidson County, and said line to cross the front part of Lots 26, 25 and 34 as shown on map of Manie Hege and C. M. Peeler Estate and recorded in Plat Book 5, Page 91, in Register of Deeds Office in Davidson County, said line to run for a distance of 475.30'; more or less to the property line of Lots Nos 24 and 23 of said Hege and Peeler map; thence S. 84° 10' W. along the property line of Lots Nos. 24 and 23 and also along the property line of Lots 30 and 31 as shown on said map, 261.25' to the east property line of Lot No 32; thence S. 8° 00' W. along the east property line of Lot no 32 and the west property line of Lot no 31 for a distance of 45.94' to the southeast corner of Lot no 32 and the southwest corner of Lot No 32; thence N. 88° 00' W. along the south property line of Lots Nos 32 and 33 for a distance of 151.65' to the southwest corner of Lot No 33; thence N. 15° 14' East along the west property line of Lot No. 33 and said property line being the Right of Way line of the Winston Salem Southbound Railway, for a distance of 221.80' to the northwest corner of Lot No 33 and the southwest corner of Lot No 4; thence in a southeast direction along the north property line of Lots Nos 33 and 32 and the south property line of Lots Nos 4, 5, and 6 for a distance of 122.10' to the south corner of Lot No 6 and the southwest corner of Lot No 27 and the northwest corner of Lot No 28'; thence North 8° 00' E. along the west property line of Lot No 27 and the southeast property line of Lot No 6 for a distance of 22' to the northwest corner of Lot No 27 and the southwest corner of Lot 7; thence in an eastern direction along the north property line of Lot No. 27 and the rear property line of Lot Nos. 7, 8, and 9 for a distance of 78.7' to the rear corner of Lots Nos 16, 17 and 9; thence N. 5° 50' W. along the rear property line of Lots Nos. 16 and 9 for a distance of 35 feet to the common corner of Lots Nos. 9, 10 and 16; thence in a southeast direction along the rear of Lot No. 10 and the north property line of Lot No. 16 for a distance of 32.90' to the common corner of Lots Nos. 10, 11, 15 and 16; thence N. 16° O' West along the east property line of Lot No. 10 and the west property

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line of Lot No. 11; thence N. 79° 08' W. 498.10' to a stake in the east Right of Way of Mendota Avenue and as shown on map of Camden Village, Plat Book 15, Page 74 and running with the north Right of Way of Mendota Avenue as shown on map of Smith Development Section Two, Plat Book 5, Page 52 S. 30° E. 100' to a stake in the west Right of Way of Linwood Road; thence S. 46° 15' W. 391.24' to a stake in the east Right of Way of Pennington Avenue; thence along the west Right of Way of Linwood Road S. 42° 06' W. 332.50'; thence S. 34° 42' W. 106.90'; thence N. 56° 49' W. 106.10' thence; S. 79° 40' W. 140.3'; thence S. 76° 39' W. 100.06'; thence S. 83° W. 260' to a stake on the south bank of creek and being the northwest property corner of Lot 8, Block D as shown on map of Washington Park, Plat Book 9, Page 51; thence along the west property lines of Lots 7 and 8 S. 10° W. 47' to a stake the southwest property corner of Lot 7, Block D; and running with the south property line of Lot 7, S. 79° 17' E. 125' to a stake in the west Right of Way of Park Street; thence with the west Right of Way of Washington Drive and being the southeast property corner of Lot 1; thence along the north Right of Way of Washington Drive N. 87° 14' W. 126.20' to a stake the southwest property corner of Lot 1; thence S. 10° 43' W. 610' to a stake in the north Right of Way of Park Street and being the southwest property corner of Lot 23 and the southeast property corner of Lot 24, Block A and running with the north Right of Way of Park Street N. 79° 17' W. 34'; thence S. 10° 43' W. 159.5' to a stake the southwest property corner of Lot 12 and the southeast property corner of Lot 13, Block B and in the north property boundary of Carters Grove Subdivision as shown in Plat Book 16, Page 74 and running with the property boundary of Carters Grove S. 66° 28' E. 155'; thence S. 37° 56' 30" W. 119.69'; thence S. 36° 03' W. 180.61'; thence S. 35° 56' W. 160.19'; thence S. 37° 31' W. 71.73'; thence N. 63° 29' W. 116.90'; thence N. 37° 43' E. 131.66'; thence N. 59° 01' W. 694.76'; thence N. 34° 48' E. 228.89'; thence N. 35° 03' E. 72.62' to a concrete marker the northwest property corner of Lot 8 and in the west property line of Lot 331 and the east property line of Lot 332 as shown on map of Smith Development Section Two, Plat Book 5, Page 52 and running with the east property line of Lot 332 N. 10° 56' 09" W. 1150' more or less to a stake in the south Right of Way of Foyell Street as shown on map of Smith Development Section One, Plat Book 5, Page 51 and running with the south Right of Way of Foyell Street N. 79° 04' W. 190' to a stake the northwest property corner of Lot 332; thence crossing Foyell Street N. 10° 56' E 40' to a stake in the north Right of Way of Foyell Street and the southwest property corner of Lot 45 as shown on map of Dacotah Cotton Mills Section One, Plat Book 4, Page 32 and running with the north Right of Way of Foyell Street N. 79° 04' W. 260' to a stake; thence S. 10° 56' W. 300' to a stake the southwest property corner of Ardell Lanier; thence with the south property line of Ardell Lanier N. 79° 04' W. 180' to a stake in the west Right of Way of Moore Drive; thence with the west Right of Way of Moore Drive N. 10° 56' E 300' to a stake the south east property corner of H. P. Watkins, Lot 37, Plat Book 4, Page 32; thence N. 79° 04' W. 760' along the south property line of H. P. Watkins to a stake the southwest property corner of Lot 37 and in the west property line of Lot 71, Plat Book 4, Page 32 thence with the east property line of Lot 71, N. 10° 10' E. 800' more or less thence N. 76° 30' W. 410' more or less; thence N. 19° 45' E. 350' more or less to a point in the north Right of Way of South Main Street; thence along the north Right of Way of South Main Street S. 62° 32' W. 296' to a stake the east Right of Way of Lee Street; thence along the east Right of Way
of Lee Street N. 14° 37' W. 396.94'; thence along the north property line of Buck Young Oil Company N. 88° 25' E. 135'; thence S 71° 52' E. 28.79'; thence N. 59° 02' 28" E. 185.33'; thence S. 70° 49' 45" E. 87.57'; thence N. 64° 55' E. 183'; thence N. 71° 10' E. 360' more or less to a stake in the west Right of Way of Snider Avenue as shown on map of Dr. G. D. Crutchfield, Plat Book 5, Page 69 and running with the west Right of Way of Snider Avenue N. 44° 20' W. 360'; thence along the west property line of Lot 342 N. 45° 40' E. 190' to a stake the northwest property corner of Lot 342; thence S. 44° 20' E. 200' to a stake in the north Right of Way of Hilton Avenue; thence along the north Right of Way of Hilton Avenue N. 45° 40' E. 160' more or less; thence N. 19° 45' E. 3500' more or less to a stake at the southeast Right of Way of Archdale Drive as shown on map of Glenwood, Inc. Section One N. 85° 10' W. 965' to a point in the center line of Glenwood Drive; thence with the center line of Glenwood Drive N. 5° 20' E. 427.5' to a point in the center of Glenwood Drive; thence N. 87° 40' W. 253'; thence N. 87° 40' W. 200' to a stake in the north property line of Paul Sink and being the southeast property corner of Map of Beamer Barnes, Archie M. Sink and Craver-Essick, Plat Book 10, Page 20; thence with the south boundary line of Plat Book 10, Page 20 and with the north property line of Paul Sink N. 87° 47' W. 326' to a stone; thence with the west property line of Beamer Barnes and Archie Sink N. 19° 15' W. 213.40' to an iron stake the southeast property corner of Lexington Memorial Lodge No 696 A. F. & A. M.; thence with the west property line of Lexington Memorial Lodge No. 696 N. 89° 30' W. 607.6' to an iron stake in the east Right of Way of Highway 29 and 70; thence along the east Right of Way of Highway 29 and 70 N. 34° 30' E. 364.80' to an iron stake the northwest property corner of Lexington Memorial Lodge No 696; thence S. 89° 30' E. 395.60' to an iron stake in the west property line of Beamer Barnes and Archie Sink; thence with the west property line of Beamer Barnes and Archie Sink N. 01° 20' W. 248.20' to an iron stake; thence N. 29° 32' E. 751'; thence N. 62° 30' W. to a point in the east Right of Way of Highway 29 and 70; thence along the east Right of Way of Highway 29 and 70 N. 34° 30' E. 390' more or less to a point in the south Right of Way of West Fifth Avenue; thence with the south Right of Way of West Fifth Avenue N. 69° 15' W. 700' more or less to a stake the northeast property corner of Lot 47 as shown on map of Berrier Heights, Plat Book 3, Page 78 and being the northeast property corner of Gary Burl Craver; thence along the east property line of Lot 47 S. 20° 45' W. 150' to a stake the southeast property corner of Lot 47; thence N. 69° 15' W. 112.50' to a stake the southwest property corner of Lot 43-A; thence N. 20° 45' E. 150' to a stake in the south Right of Way of Old Highway 64 West; thence along the south Right of Way of Old Highway 64 West N. 69° 15' W. 170' more or less; thence N. 20° 45' E. 290' to a concrete marker in the south boundary property line as shown on map of Western Heights Development Corporation Section Five, Plat Book 11, Page 15 and being the southwest property corner of Lot 32, Block M; thence with the south boundary line of Western Heights Development Company N. 69° 15' W. 587.75' to a concrete marker in the east property line of Forest Hills Memorial Park; thence N. 3° 49' E. 1123.7' to a concrete marker the northwest property corner of Lot 10; thence with the north property boundary of Western Heights Development Company and the south property line of Frank Shoaf S. 86° 13' E. 2,125' to a stake in the north property line of Lot 1 as shown on map of Western Heights Development Company Section Four, Block J; thence N. 3° 47' E. 300' to an iron in the north
Right of Way of New Highway 64 West and being the southwest property corner of Lot 7 as shown on map of Knob Hill Vista, Plat Book 12, Page 94 and being the northeast property corner of Midland Shopping Center and running with the N. C. State Highway 64 West Right of Way and the south property line of Midland Shopping Center N. 74° 23' W. 261'; thence N. 68° 46' W. 204.00'; thence S. 72° 33' W. 86.90'; thence N. 62° 16' W. 866.40' the southeast property corner of Frank Shoaf et als; thence along the north Right of Way of Highway 64 W. N. 55° 21' W. 500' to a stake the southwest property corner of Frank Shoaf et als and being in the east Right of Way of Forest Hill Road; thence along the east Right of Way of Forest Hill Road N. 27° 15' E. 654' to a stake the northwest property corner of Frank Shoaf et als and the southwest property corner of Willey Shoaf Estate and running with the north Right of Way of Frank Shoaf et als and the south property line of Wiley Shoaf Estate S. 62° 45' E. 500' to a stake the northwest property corner of the Midland Shopping Center; thence along the north property line of Midland Shopping Center N. 75° 32' E. 1068.8' to a stake in the west property boundary of Knob Hill Vista, Plat Book 6, Page 76 and running with the west property boundary line of Knob Hill Vista N. 4° E. 849.20' to an iron stake the north property corner of Lot 192 as shown on above plat and in the south property line of J. O. Boaze; thence running along the south property line of J. O. Boaze and the north property boundary line of Knob Hill Vista S. 87° 10' E. 1598' to an iron stake the northeast property corner of Knob Hill Vista and the southeast property corner of J. O. Boaze and in the west property line of Dr. Jerry A. Laws; thence with the east property line of J. O. Boaze and the west property line of Dr. Jerry A. Laws N. 2° 36' E. 142.61' to a stake in the north Right of Way of West Center Street Extention and in the west property line as shown on map of Grimes Property, Plat Book 6, Page 61 and being the southwest property corner of Lot #1, Block A; thence running with the east property line of J. O. Boaze and the west property boundary of the Grimes Property, Plat Book 6, Page 61 and along the west property boundary of map of Woodcrest Section Two, Plat Book 7, Page 78 and as shown on map of Woodcrest Section One N. 3° 30' E. 3605' to an iron stake the southeast property corner of Foster Call and the northeast property corner as shown on map of Betty Bishop Subdivision, Plat Book 8, Page 17; thence with the north property boundary of Betty Bishop Subdivision and the south property line of Foster Call N. 75° W. 283.4' to an iron stake on the east side of Larry Drive and the southwest property corner of Foster Call and being the northeast property corner of Lot 12 as shown on map of Betty Bishop Subdivision in Plat Book 8, Page 17; thence running with the east property line of Lot 12 S. 25° W. 214' to a stake in the north Right of Way of Douglas Drive and being the northeast property corner of Lot 39 and the northwest property corner of Lot 38 and running with the south Right of Way of Douglas Drive N. 75° W. 375' to a stake in the east Right of Way of Boaze Road and being the northwest property corner of Lot 54; thence crossing the Boaze Road N. 48° 23' W. 60' to a stake in the west Right of Way of Boaze Road, the southeast property corner of Lot 11 as shown on map of Pleasant Hills Subdivision, Plat Book 14, Page 21 and running N. 69° 35' W. 192.34'; thence S. 20° 26' W. 50'; thence S. 32° 01' W. 75'; thence S. 56° 06' E. 150' to a point in the west Right of Way of the Boaze Road; thence along the west Right of Way of the Boaze Road S. 41° 36' W. 130' more or less to a stake in the southeast Right of Way of Hammond Road and being the northeast property
corner of Lot 36; thence along the west Right of Way of the Boaze Road S. 36° 01' W. 195.60'; thence S. 11° 10' W. 83.40' to a stake the southeast property corner of Pleasant Hills; thence N. 79° 30' W. 138.5'; thence S. 5° 51' W. 90.00' to a stake in the north property line of J. O. Boaze; thence N. 79° 30' W. 543.47' to an iron pipe the southwest property corner of Pleasant Hills and the southeast property corner of Peeler Thompson Subdivision as shown on Plat Book 3, Page 75; thence N. 4° 36' W. 1093.60' to an iron stake the northwest property corner of Pleasant Hills Subdivision (thence S. 84° 50' E. 206.39' to an iron stake; thence S. 5° 46' E. 253.30'; thence S. 69° 36' E. 467.90'; thence N. 5° 46' W. 251.37' to an iron stake; thence S. 88° 36' E. 479.90' to an iron stake the northeast property corner of Lot #3 as shown on map of Pleasant Hills Subdivision and in the west property line of Hazel Greene Marshall as described in Deed Book 425, Page 13 and running with the north property line of Hazel Greene Marshall S. 88° 36' W. 100' to an iron stake the southwest property corner of Robert E. Walker; thence with the west property line of Robert E. Walker, Deed Book 304, Page 192 N. 4° 18' W. 75' to an iron stake the northwest property corner of Robert E. Walker and in the south property line of Thomas J. Younts, Deed Book 493, Page 107; thence along the west property line of Robert E. Walker and in the south property line of Thomas J. Younts; thence along the north property line of Robert E. Walker S. 88° 36' W. 100' to an iron stake in the west Right of Way of Boaze Road and being the northeast property corner of Robert E. Walker; thence with the west Right of Way of the Boaze Road S. 4° 18' W. 265' more or less; thence crossing Boaze Road and running with the north property line of Bobby Milam S. 88° 36' E. 180' to an iron stake the northeast property corner of Bobby Milam, Deed Book 412, Page 222; thence along the east property line of Bobby Milam S. 4° 18' E. 75' to an iron stake the southwest property corner of Bobby Milam; thence S. 88° 36' E. 351' more or less to an iron stake in the west property line as shown on map of Woodcrest Section One, Plat Book 7, Page 78 and being the northeast property corner of Lot 20 as shown on Tax Map 331-B and running with the west property line of Woodcrest Section One, Plat Book 7, Page 78 N. 3° 32' E. 500' more or less to the beginning.

(b) Whenever the corporate boundaries of the City are altered in accordance with law, such changes in the corporate boundaries shall be indicated by appropriate additions to the official map or description of the boundaries of the City, to be maintained in the office of the City Clerk.

"ARTICLE II. MAYOR AND CITY COUNCIL.

"Sec. 2.1. Governing Body. The Mayor and City Council, elected and constituted as herein set forth, shall be the governing body of the City. On behalf of the City, and in conformity with applicable laws, the Mayor and Council may provide for the exercise of all municipal powers, and shall be charged with the general government of the City.

"Sec. 2.2. Mayor; Term of Office; Duties. The Mayor shall be elected by and from the qualified voters of the City for a term of two years, in the manner provided by Article III of this Charter; provided, the Mayor shall serve until his successor is elected and qualified. The Mayor shall be the official head of the City government, shall preside at all meetings of the City Council, and shall have the powers and duties of Mayor as prescribed by this Charter and the
General Statutes. The Mayor shall have the right to vote on matters before the Council only where there are an equal number of votes in the affirmative and in the negative.

"Sec. 2.3. City Council; Terms of Office. The City Council shall be composed of six members, one resident in each of the five electoral wards of the city, as established by the Council, and one representing the city at large, each of whom shall be elected for terms of four years, in the manner provided by Article III of this Charter; provided Council members shall serve until their successors are elected and qualified.

"Sec. 2.4. Mayor Pro Tempore. In accordance with applicable State laws, the City Council shall appoint one of its members to act as Mayor pro tempore to perform the duties of the Mayor in the Mayor's absence or disability. The Mayor pro tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Council.

"ARTICLE III. ELECTIONS.

"Sec. 3.1. Regular Municipal Elections; Conduct. Regular municipal elections shall be held in the City every two years in odd-numbered years, and shall be conducted in accordance with the uniform municipal election laws of North Carolina. The Mayor and members of the Council shall be elected according to the nonpartisan plurality method.

"Sec. 3.2. Election of the Mayor. At the regular municipal election in 1981, and every two years thereafter, there shall be elected a Mayor to serve a term of two years. The Mayor shall be elected by the qualified voters of the City voting at large.

"Sec. 3.3. Election of Council Members. The City shall be divided into five electoral wards. With the exception of the one at-large council member, candidates shall reside in and represent the districts according to the wards designated by the City Council, but all candidates shall be elected by all the qualified voters of the City. At the regular municipal election in 1981, and every four years thereafter, there shall be elected three council members to represent the East, West and North 2 electoral wards. At the regular municipal election in 1983, and every four years thereafter, there shall be elected two council members to represent the South and North 1 electoral wards, and one council member to represent the City at large.

"ARTICLE IV. ORGANIZATION AND ADMINISTRATION.

"Sec. 4.1. Form of Government. The City shall operate under the Council-Manager form of government, in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Sec. 4.2. City Manager. The City Council shall appoint a City Manager who shall be the administrative head of the City government, and who shall be responsible to the Council for the proper administration of the affairs of the City. The City Manager shall hold office at the pleasure of the City Council, and shall receive such compensation as the Council shall determine.

"Sec. 4.3. City Attorney. The City Council shall appoint a City Attorney who shall be licensed to engage in the practice of law in the State of North Carolina. It shall be the duty of the City Attorney to prosecute and defend suits against the City; to advise the Mayor, City Council and other City officials with respect to the affairs of the City; to draft all legal documents relating to the affairs of the City; to inspect and pass upon all agreements, contracts, franchises and other instruments with which the City may be concerned; to attend meetings of
the City Council; and to perform other duties required by law or as the Council may direct.

"Sec. 4.4. City Clerk. The City Council shall appoint a City Clerk to keep a journal of the proceedings of the Council, to maintain in a safe place all records and documents pertaining to the affairs of the City, and to perform such other duties as may be required by law or as the City Council may direct.

"Sec. 4.5. City Finance Officer. The City Manager shall appoint a Finance Officer to perform the duties of the Finance Officer as required by the Local Government Budget and Fiscal Control Act.

"Sec. 4.6. City Tax Collector. The City Council shall appoint a Tax Collector to collect all taxes, licenses, fees and other revenues accruing to the City, subject to the General Statutes, the provisions of this Charter and the ordinances of the City. The Tax Collector shall diligently comply with and enforce all the laws of North Carolina relating to the collection of taxes and other revenues by municipalities.

"Sec. 4.7. Consolidation of Functions. The City Council may provide for the consolidation of any two or more positions of City Manager, City Clerk, Tax Collector and Finance Officer, or may assign the functions of any one or more of these positions to the holder or holders of any other of these positions, subject to the Local Government Budget and Fiscal Control Act.

"Sec. 4.8. Other Administrative Officers and Employees. Consistent with applicable State laws, the Manager and City Council may establish other positions, provide for the appointment of other administrative officers and employees, and generally organize the City government in order to promote the orderly and efficient administration of the affairs of the City.

"ARTICLE V. PUBLIC IMPROVEMENTS.

"Sec. 5.1. (Reserved).

"ARTICLE VI. SPECIAL PROVISIONS.

"Sec. 6.1. Firemen's Supplemental Retirement Fund. (a) Supplemental Retirement Fund Created. The Board of Trustees of the Local Firemen's Relief Fund of the City of Lexington, as established in accordance with G.S. 118-6, hereinafter called the Board of Trustees, shall create and maintain a separate fund to be called the Lexington Firemen's Supplemental Retirement Fund hereinafter called the Supplemental Retirement Fund, and shall maintain books of account for such Fund separate from the books of account of the Firemen's Local Relief Fund of the City of Lexington, hereinafter called the Local Relief Fund. The Board of Trustees shall pay into the Supplemental Retirement Fund the funds prescribed by this section.

(b) Transfers of Funds and Disbursements. Notwithstanding the provisions of G.S. 118-7, the Board of Trustees of the Local Firemen's Relief Fund of the City of Lexington shall:

(1) Prior to January 1, 1972, transfer to the Supplemental Retirement Fund all funds, including earnings on investments of the Local Relief Fund in excess of ten thousand dollars ($10,000);

(2) In each subsequent calendar year, and within thirty (30) days after receipt from the City Treasurer of the annual funds paid to the Local Relief Fund by authority of G.S. 118-5, transfer to the Supplemental Retirement Fund such funds;

(3) At the end of any calendar year when the amount of funds in the Local Relief Fund shall, by reason of disbursements authorized by G.S. 118-7,
be less than ten thousand dollars ($10,000), transfer from the Supplemental Retirement Fund to the Local Relief Fund an amount sufficient to maintain in the Local Relief Fund the sum of ten thousand dollars ($10,000);

(4) As soon as practicable after January 1 of each year, but in no event later than July 1, divide the income earned in the preceding calendar year upon investments of funds belonging to the Supplemental Retirement Fund and upon investments of funds belonging to the Local Relief Fund into equal shares and disburse the same as supplemental retirement benefits in accordance with Subsection (c).

(c) Supplemental Retirement Benefits.

(1) Subject to the limitation prescribed in subsection (3) of this section, each fireman of the City who retires with twenty (20) years’ service or more as a City fireman shall be entitled to and shall receive the following supplemental retirement benefits:

(A) One share for each full year of service as a full-time and fully paid fireman of the City;

(B) One-half of one share for each full year of service as a volunteer fireman of the City;

(C) One-half of one share for each full year of service in the armed forces of the United States after having served as a fireman of the City; provided, that in no event shall any person be entitled to receive more than two full shares for such military service.

(2) Any former fireman of the City, either full-time and fully paid or volunteer, who is not otherwise entitled to supplemental retirement benefits under subsection (1) of this section, shall nevertheless be entitled to such benefits in any calendar year in which the Board of Trustees makes the following written findings of fact:

(A) That he initially retired from his position as fireman because of his inability, by reason of sickness or injury, to perform the normal duties of an active fireman; and

(B) That, within thirty (30) days prior to or following his initial retirement as a fireman, at least two physicians licensed to practice medicine in North Carolina certified that he was at such time unable, by reason of sickness or injury, to perform the normal duties of an active fireman; and

(C) That, at the time of his initial retirement as a fireman, there was not available to him in the fire department or in any other department of the City a position of employment the normal duties of which he was capable of performing; and

(D) That, since the preceding January 1, at least two physicians licensed to practice medicine in North Carolina have certified that he remains unable, by reason of sickness or injury, to perform the normal duties of an active fireman; and

(E) That there is not available to him in the fire department or in any other department of the City a position of employment the normal duties of which he is capable of performing; provided, that the Board of Trustees, after initially making the findings of fact specified in (A), (B) and (C) of this subsection, need not specify such findings in subsequent calendar years.
(3) No person shall receive in any calendar year more than three hundred dollars ($300.00) in supplemental retirement benefits under the provisions of this section.

(d) Intention. It is the intention of section (c) above to authorize the disbursement as supplemental retirement benefits only of the income derived in any calendar year from the investments of funds belonging to the Supplemental Retirement Fund and the Local Relief Fund. It is the intention of section (b) above to require that the funds paid into the Supplemental Retirement Fund pursuant to subsections (1) and (2) thereof shall be held in trust, and that no funds paid into the Supplemental Retirement Fund pursuant to subsections (1) and (2) thereof or as a gift, grant, bequest, or donation to such Fund shall ever be disbursed except as and when required by subsection (3) thereof.

(e) Investment of Funds. The Board of Trustees is hereby authorized to invest any funds, either of the Local Relief Fund or of the Supplemental Retirement Fund, in any investment named in or authorized by G.S. 159-30, only in accordance with the provisions thereof.

(f) Acceptance of Gifts. The Board of Trustees is hereby authorized to accept any gift, grant, bequest or donation of money for the use of the Supplemental Retirement Fund.

(g) Bond of Treasurer. The Board of Trustees shall bond the Treasurer of the Local Relief Fund with a good and sufficient bond, in an amount at least equal to the amount of funds in his control, payable to the Board of Trustees, and conditioned upon the faithful performance of his duties; such bond shall be in lieu of the bond required by G.S. 118-6. The Board of Trustees shall pay from the Local Relief Fund the premiums on the bond of the Treasurer.

(h) If any provision of this section shall be declared invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions hereof which can be given effect without the invalid provision, and to this end the provisions of this section are declared to be severable.

"Sec. 6.2. Retirement Credit. If the City of Lexington becomes a participant in the North Carolina Local Governmental Employees Retirement System, the City Council of the City of Lexington may provide for its employees to receive prior service credit in the Local Governmental Employees Retirement System equal to the period of credited service which the respective employees have in the City of Lexington Retirement Plan at the time the City becomes a participant in the Local Governmental Employees Retirement System, and no other prior service credit shall be given for service with the City of Lexington.

"ARTICLE VII. BOARDS AND COMMISSIONS.

"Sec. 7.1. Alcoholic Beverage Control Board. (a) The City Council of the City of Lexington may, on its own motion and shall upon a petition to said Council, signed by at least fifteen percent (15%) of the qualified voters who voted in the last election, order an election to be held on the question of whether or not City liquor control stores may be operated in the City of Lexington and if a majority of the votes cast in such election shall be for the operation of such stores, it shall be legal for liquor control stores to be set up and operated in said City, but if a majority of the votes cast in said election shall be against the operation of City liquor control stores, no such stores shall be set up or operated in said City under provision of this act.

(b) In calling for such special liquor election, the said council shall give at least twenty days' public notice of the same prior to the opening of the
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registration books, and said registration books shall remain open for the same period of time before such special liquor election as is required by law for them to remain open for a regular municipal election. A new registration of voters for such special liquor election shall not be necessary and all qualified electors who are properly registered prior to registration for the special election and those who register in said special liquor election shall be entitled to vote in said election. In said election a ballot shall be used upon which shall be printed on separate lines for each proposition:

□ FOR City of Lexington Liquor Control Stores.
□ AGAINST City of Lexington Liquor Control Stores.'

Those favoring setting up and operating liquor control stores in the City of Lexington shall mark in the voting squares to the left of the words 'FOR City of Lexington Liquor Control Stores' printed on the ballot, and those opposed to City liquor control stores shall mark in the voting square to the left of the words 'AGAINST City of Lexington Liquor Control Stores.' Except as otherwise herein provided, the special election authorized shall be conducted under the same statutes, rules and regulations applicable to elections for the Mayor of the City of Lexington. The cost of such election shall be paid from the general fund of the City of Lexington.

(c) If a subsequent election shall be held and at such election a majority of the votes shall be cast 'AGAINST City of Lexington Liquor Control Stores', the City of Lexington Liquor Control Board shall within three months from the canvassing of such votes and declaration of the result thereof, close said stores and shall thereafter cease to operate the same, and within three months the City of Lexington Liquor Control Board shall dispose of all alcoholic beverages on hand, all fixtures, and all other property in the hands and under the control of said board and convert the same into cash and turn the same over to the City Treasurer. Thereafter, all Public, Public-Local, and Private Laws applicable to the sale of intoxicating beverages within said City of Lexington in force and effect prior to the authorization to operate City of Lexington Liquor Control Stores shall be in full force and effect the same as if such election had not been held until and unless another election is held under the provisions of this act in which a majority of the votes shall be cast 'FOR City of Lexington Liquor Control Stores'. No election shall be called and held in the City of Lexington under the provisions of this act within two years from the holding of the last election thereunder. It shall be the duty of the City Council of the City of Lexington to order the special liquor election herein authorized within sixty days after a sufficient petition has been filed requesting the same. But no election under this act shall be held on the day of the biennial, county, or City of Lexington general election or primary election, or within thirty days of any such election.

(d) If the operation of City liquor control stores is authorized under the provisions of this act, the Mayor and City Council of the City of Lexington shall immediately create a City board of alcoholic control to be composed of a chairman and two other members who shall be well-known for their character, ability, and business acumen. Said board shall be known and designated as 'The City of Lexington Board of Alcoholic Control.' The chairman of said board shall be designated by the Mayor and City Council of the City of Lexington and shall serve for his first term a period of three years, and one member shall serve for his first term a period of two years, and the other member shall serve for a

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period of one year; and all terms shall begin with the date of their appointment, and after the said terms shall have expired, their successors in office shall serve for a period of three years. Their successors, or any vacancy occurring in the board, shall be named or filled by the Mayor and the governing body of the City of Lexington.

All members of the City of Lexington Board of Alcoholic Control shall be residents of the City of Lexington, and establishment of residence outside the City of Lexington shall be grounds for removal of a member of the City of Lexington Board of Alcoholic Control upon resolution of the City Council of the City of Lexington. No member of the Board of Alcoholic Control shall serve more than two three-year terms consecutively; but a member shall be eligible for reappointment after the expiration of one year after serving two consecutive three-year terms. Members of the Board of Alcoholic Control serving on the date of ratification of this act may serve an additional three-year term at the expiration of their current terms. Serving part of an unexpired term shall not be considered as serving a three-year term.

(e) The said City of Lexington Board of Alcoholic Control shall have all of the powers and duties imposed by the General Statutes of North Carolina on county boards of alcoholic control and shall be subject to the powers and authority of the State Board of Alcoholic Control the same as county boards of alcoholic control as provided in the General Statutes.

The said City of Lexington Board of Alcoholic Control and the operation of any City liquor stores authorized under the provisions of this act shall be subject to and in pursuance with the provisions of Article 2 of Chapter 18A of the General Statutes, except to the extent which the same may be in conflict with the provisions of this act. Wherever the word 'county' board of alcoholic control appears in said Article, it shall include the City of Lexington Board of Alcoholic Control.

The Lexington Board of Alcoholic Control shall have the authority to employ one or more ABC law enforcement officers to be appointed by and directly responsible to the Board. The officers so appointed shall have the same powers, authority and jurisdiction throughout the County of Davidson, and the municipalities therein, as other peace officers of the County and its municipalities, including the powers conferred upon local ABC officers in G.S. 18A-20. The Board shall expend for law enforcement not less than five percent (5%) nor more than fifteen percent (15%) of the gross profits derived from operation of liquor control stores to be determined by quarterly audits.

(f) The net profits derived from the operation of liquor control stores in the City of Lexington, after deducting the necessary funds for law enforcement as provided herein, shall be divided as follows:

1. Fifteen percent (15%) to the general fund of the City of Lexington for the acquisition and improvement of lands and buildings for public parks, playgrounds, and recreational centers and the maintenance and operation of the same.

2. Fifteen percent (15%) to the City of Lexington Administrative School Unit to operate the City of Lexington Administrative School Unit Schools at a higher standard than provided by county or State support, including the use of said funds for capital improvements, and to supplement the salaries of public school teachers teaching in the City of Lexington Administrative School Unit.
(3) The remaining net profits shall be paid to the City Council of the City of Lexington to be used for general fund purposes.

"Sec. 7.2. Utilities Commission. 1. Creation; Composition; Terms.

A. A commission of the City of Lexington to be known as the Lexington Utilities Commission is hereby created. The Commission shall be composed of six members, five of whom shall be residents of the respective voting wards which are currently or hereafter established for the election of City Councilmen and one of whom shall be a resident of the City at large. Appointments to the membership of the Lexington Utilities Commission for South Ward and for North Ward II shall be made at the regular meeting of the City Council of the City of Lexington in December 1983. Appointments to the membership of the Lexington Utilities Commission for the West Ward and for the City at large shall be made at the regular meeting of the City Council in December 1981. Appointments to the membership of the Lexington Utilities Commission for the East Ward and for North Ward I shall be made at the regular meeting of the City Council in December 1982. Each appointment to the Lexington Utilities Commission shall be for a term of three years, and no person shall be eligible for reappointment who has previously served two consecutive three-year terms until one year after the expiration of the last term served, except that the members serving as of June 18, 1980, may be appointed for one additional three-year term regardless of prior years' service and any present or future member who has not served two consecutive three-year terms may be reappointed.

B. The membership of the six-member Utilities Commission established by this section shall be initially constituted as follows:

Fred W. Fite and Jack Phillips shall serve until the first meeting of the City Council in December 1983.

L. Klynt Ripple and Robert L. Lowe shall serve until the first meeting of the City Council of the City of Lexington in December 1982.

Earl Riddle and Evelyn Bingham shall serve until the first meeting of the City Council in December 1981.

As the term of each of the above enumerated members of the Commission expires, a successor shall be appointed as provided in Part A of this section for a term of three years by the City Council at the first regular meeting of the Council in December of each respective year. The City Council shall fill vacancies on the Commission occurring otherwise than by expiration of term, by appointment for the unexpired term. Appointments to fill vacancies on the Commission, occurring by reason of expiration of a term or otherwise, shall be upon majority vote of the membership of the City Council. The Mayor shall vote if there is a tie vote.

C. If a member of the Utilities Commission establishes a residence outside of the City of Lexington or outside of the ward from and for which he was appointed then this shall be grounds for his removal as a member of the Lexington Utilities Commission by resolution of the City Council.

2. Qualifications of Commissioners. The members of the Commission shall be residents of the City of Lexington, and shall be citizens of recognized ability and good business judgment and standing who, in the opinion of the City Council
can and will perform their official duties to the best interest of the City and its inhabitants.

3. Duties of Commission. The Commission shall have full charge and control and the general supervision and management of the electric light plant, gas distribution system, the waterworks and sewerage, and shall collect all rents and profits accruing therefrom, and shall make all disbursements on account of the same.

4. Organization. That the members of the said Commission shall meet as soon after their election as possible, and shall elect out of their number a Chairman, a Secretary and a Treasurer, each of whom shall be a different person. The duties of each shall be such as is prescribed by said Commission from time to time, not inconsistent with the provisions of this act. The Chairman selected shall not vote unless there is a tie vote.

5. Records to be Kept. That the said Commission shall keep a complete and full record of all meetings held and official action taken, and of all other transactions, items and facts necessary to the proper and intelligent conduct of the business affairs and shall keep a separate account of each item of property under their control, showing in detail the income of each, the disbursements on account of each, and the net income or loss on each of the same.


7. Supervision of Electric Light, Water and Sewerage Plants. That said Commission shall have full charge and control and shall supervise the construction, repairing and alteration or enlargement of the electric light plant, the waterworks plant and the sewerage plant, gas distribution system, with full power and authority to make all necessary contracts, relating to the same, including the purchase of all necessary sites, machinery, supplies and other property and the employment of the necessary labor and help in said construction, repairing, alteration or enlargement; and all other public utilities, now owned or which may hereafter be owned by the City of Lexington. Said Council shall make a monthly settlement with said Utility Commission for all lights and water used by the City during the preceding month, and said Commission shall at all times have credit with said Council, for the purpose of properly conducting the business, equal to one month's charge from the light, water and sewerage of the City.

8. Contract by Commission. That no contract shall be entered into by said Commission without the concurrence of at least two members thereof, and all contracts made by said Commission, required to be in writing, shall be in the name of the City of Lexington, signed by the Chairman and attested by the Secretary of the said Commission and sealed with the corporate seal of said City. The title to all property under the management and control of said Commission shall be and remain in the City of Lexington, and the title to all property purchased or acquired by said Commission shall vest in said City; Provided, that nothing in this act shall be construed as conferring upon said Commission any power or authority to convey title to any public utilities, buildings or other real property under their management and control. All contracts relative to the purchase of power or gas from power or utility companies, or other persons, firms or corporations engaged in the wholesale sale of electrical power, or the erection of power plants, shall be in the name of the
City of Lexington executed by the Commission but said contract or contracts must have the approval of the City Council before same can become effective.

9. Proceeds of Bonds and Special Funds. That the proceeds from the sale of any bonds, and all other special funds to be used in the construction, repairing, alteration or enlargement of any public utilities, building or other property mentioned in Section 7 of this act, shall be paid over to the Treasurer of said Commission, who shall disburse the same as provided in this act, including the proceeds from the sale of any obligations issued by the said City to the Federal Emergency Administration of Public Works; however, in the event the City of Lexington should authorize and issue revenue bonds against any or all of its utilities properties, revenues or income received from any or all special revenue bonded utility shall be kept separate and disbursed as provided in the resolution or bond order of the Board of Commissioners of the City of Lexington, encumbering the said utility.

10. Power of Commission in Management of Property. That said Commission is hereby fully authorized and empowered to make all necessary contracts in the proper management of said public utilities and other property under its management and control, and to employ and discharge all necessary superintendents, clerks, utilities managers, accountants, laborers, artisans and other help in said management; to prescribe the duties and fix the salaries of each, and to require such bonds of each as said Commission may deem proper to the successful management of said property.

11. Power to Fix Rates and Rents. Said Commission is hereby fully authorized and empowered to fix rates for water, lights, sewage and gas subject to the limitations fixed in any franchise heretofore granted and which may hereafter be granted for the same.

12. Annual Budget. The Utility Commission shall prepare and adopt an annual budget which shall be submitted to the City Council for inclusion as a part of the annual budget for the City of Lexington. Said Commission shall render a full report to the City Council of Lexington not later than the second Monday of each month which shall show the revenues and expenditures for the month, the revenues and expenditures for the fiscal year to date, and the unencumbered balances in the various accounts of the Utility Commission. At the beginning of the fiscal year the Utility Commission shall estimate the profits which shall result from operations during that year, and shall monthly pay to the Treasurer of the City of Lexington a prorated amount of those estimated profits. At the end of the fiscal year, or sooner, if it should be determined by the Utility Commission and the City Council that the amount of profits shall not be as great as the amount estimated, the annual budget shall be amended by the City Council to make appropriate adjustments in revenues and appropriations. At the end of each fiscal year necessary adjustments shall be made so as to reflect the actual amount of profits in the payment by the Utility Commission to the City of Lexington.

13. Annual Report. That at the end of each fiscal year said Commission shall publish a complete report for the year, which shall include all financial operations of said Commission during the year and all items, facts and information required by the provisions of this act to be reported monthly to the said Council.

14. Salary of Commission and Utilities Manager. As compensation for their services each member of said Commission shall be paid the same salary paid
members of the City Council. The City Manager shall serve as Utilities Manager for the Utility Commission.

15. Neglect of Duty. That if any member of said Commission shall willfully neglect or fail to perform any duty required by the provisions of this act, or required by any rule or regulation by said Commission in pursuance of the authority contained in said act, such member may be removed from office by a two-thirds vote of the Utility Commission and the City Council of the City of Lexington in joint session.

16. Appropriation of Revenues. That it shall be the duty of said Commission to provide for a strict segregation of revenue and funds derived from the said utilities and it shall be the duty of the City of Lexington to appropriate and apply and expend the said revenue as follows: (1) To the necessary expense incident to the operation of said utilities. As to these expenses the nature and amount thereof, the decision of the Commission shall be final; (2) For the necessary replacement, repairs and additions to the said utilities; (3) The amount of surplus remaining shall be paid to the Treasurer of the City of Lexington and shall be subject to the control of the City Council in the same way as public funds of the City.

17. Powers of City. Nothing contained in this act shall limit in any way the powers of the City of Lexington under the Revenue Bond Act of 1938, as amended, and any covenants made or action taken pursuant to said Revenue Bond Act by the City Council of the City of Lexington shall be binding upon the Lexington Utility Commission.

"Sec. 7.3. Lexington and Thomasville Joint Water Supply System. A. Authority. The City of Lexington and the City of Thomasville, as municipal corporations, shall have authority as hereinafter provided and set forth by the adoption of resolutions to be passed by the governing body of each of said municipal corporations to acquire, construct, improve, maintain and operate jointly a waterworks reservoir system. In order to render more effectual exercise of the authority herein granted the said municipal corporations may enter into any and all contracts which may be appropriate to that end among or between themselves or with other parties.

B. Financing. The City of Lexington and the City of Thomasville upon determining the need of such waterworks reservoir are hereby granted the same authority to issue bonds or other means of financing for the acquisition, construction and improvement of such works as is now given to any municipal corporation under the general laws of North Carolina and particularly under the Municipal Finance Act as amended.

C. Cost to be Apportioned. The cost of any such joint acquisition, construction, improvement, maintenance and operation for a waterworks reservoir shall be apportioned between or among the City of Lexington and the City of Thomasville in a manner to be by them agreed upon and determined.

D. Powers, Repeal of Special and Local Laws, Conflicts. The governing bodies of the two (2) municipalities shall not only have power to acquire, provide, construct, establish, maintain and operate a waterworks system reservoir jointly and protect and regulate the same by adequate rules and regulations, but said governing bodies of the two (2) cities, either separately or jointly, also shall have the right to condemn lands, right-of-way necessary for the impounding and storage of water and the proceedings for such condemnation shall be as provided under the general laws of North Carolina for opening new streets and other
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municipal purposes. It is the intention of this act that the powers herein granted to the two (2) municipalities shall not repeal any special or local law, or affect any proceedings under any special or local law relative to providing, constructing, establishing, maintaining or operating any system of waterworks in any municipality, or for the raising of funds therefor, but shall be deemed to be additional and independent legislation for such purposes and to provide an alternative method of procedure for such purposes, and supplementary to those powers granted municipalities in their charters. In any case in which the provisions of this act are in conflict with the provision of any local statute or charter, then the governing body of each municipality, or both, may in its discretion, proceed in accordance with the provisions of such local statute or charter, or as an alternative method of procedure in accordance with the provisions of this act."

Sec. 2. The purpose of this act is to revise the Charter of the City of Lexington and to consolidate herein certain acts concerning the property, affairs, and government of the City. It is intended to continue without interruption those provisions of prior acts which are consolidated into this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 3. This act shall not be deemed to repeal, modify, or in any manner affect any of the following acts, portions of acts, or amendments thereto, whether or not such acts, portions of acts, or amendments are expressly set forth herein:

(a) Any acts concerning the property, affairs, or government of public schools in the City of Lexington.

(b) Any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

Sec. 4. The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act are hereby repealed:

Ch. 51, Priv. Acts of 1827-28
Ch. 37, Priv. Acts of 1829-30
Ch. 177, Priv. Laws of 1833-34, as to the Town of Lexington
Ch. 168 (Priv.) Reg. Sess., Laws of N.C., 1860-61
Ch. 115, Priv. Laws of 1868-69
Ch. 19, Priv. Laws of N.C., 1870-71
Ch. 49 (Priv.) Laws of N.C., 1873-74
Ch. 160 (Pub.) Laws of N.C., 1876-77
Ch. 55 (Priv.) Laws of N.C., 1883
Ch. 281 (Priv.) Laws of N.C., 1893
Ch. 552, Pub. Laws of N.C., 1897
Ch. 131, Priv. Laws of N.C., 1897
Ch. 157, Priv. Laws of N.C., 1897
Ch. 41, Priv. Laws of 1899
Ch. 317, Pub. Laws of N.C., 1899
Ch. 304, Priv. Laws of N.C., 1903
Ch. 21, Priv. Laws of N.C., 1905
Ch. 138, Priv. Laws of N.C., 1905
Ch. 14, Priv. Laws of N.C., 1907

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Ch. 348, Priv. Laws of N.C., 1909
Ch. 369, Priv. Laws of N.C., 1909
Ch. 47, Reg. Sess., Priv. Laws of N.C., 1913
Ch. 50 (Priv.), Pub.-Loc. and Priv. Laws of N.C., 1919
Ch. 22, Priv. Laws, Extra Session 1924, as to the City of Lexington
Ch. 122 (Priv.), Pub.-Loc. and Priv. Laws of N.C., 1925
Ch. 179 (Priv.), Pub.-Loc and Priv. Laws of N.C., 1929
Ch. 18 (Priv.), Pub.-Loc. and Priv. Laws of N.C., 1931
Ch. 58 (Priv.), Pub.-Loc. and Priv. Laws of N.C., 1931
Ch. 70 (Priv.), Pub.-Loc. and Priv. Laws of N.C., 1933
Ch. 164 (Priv.), Pub.-Loc. and Priv. Laws of N.C., 1933
Ch. 231, Priv. Laws of 1933, as to the City of Lexington
Ch. 366, Pub. Laws of 1935, as to the City of Lexington
Ch. 22 (Priv.), Pub.-Loc. and Priv. Laws of N.C., 1935
Ch. 136 (Priv.), Pub.-Loc. and Priv. Laws of N.C., 1935
Ch. 160 (Priv.), Pub.-Loc. and Priv. Laws of N.C., 1935
Ch. 36 (Priv.), Pub.-Loc. and Priv. Laws of N.C., 1937
Ch. 5 (Pub.-Loc.), Pub.-Loc. and Priv. Laws of N.C., 1941
Ch. 6 (Pub.-Loc.), Pub.-Loc. and Priv. Laws of N.C., 1941
Ch. 1258, S. L., 1949
Ch. 231, S. L., 1951
Ch. 352, S. L., 1951
Ch. 428, S. L., 1951
Ch. 500, S. L., 1951
Ch. 84, S. L., 1953
Ch. 161, S. L., 1953
Ch. 504, S. L., 1953
Ch. 1056, S. L., 1953
Ch. 351, S. L., 1957
Ch. 414, S. L., 1957
Ch. 1323, S. L., 1957
Ch. 45, S. L., 1959
Ch. 46, S. L., 1959
Ch. 125, S. L., 1959
Ch. 208, S. L., 1959
Ch. 1225, S. L., 1959
Ch. 5, S. L., 1963
Ch. 6, S. L., 1963, as to the City of Lexington
Ch. 84, S. L., 1963
Ch. 292, S. L., 1963
Ch. 310, S. L., 1963
Ch. 836, S. L., 1963, as to the City of Lexington
Ch. 837, S. L., 1963
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Ch. 63, S. L., 1965
Ch. 653, S. L., 1965
Ch. 56, S. L., 1967
Ch. 148, S. L., 1967
Ch. 948, S. L., 1969
Ch. 81, S. L., 1971
Ch. 123, S. L., 1971
Ch. 772, S. L., 1971
Ch. 934, S. L., 1973 (Second Session, 1974)
Ch. 1095, S. L., 1979 (Second Session, 1980)
Ch. 1103, S. L., 1979 (Second Session, 1980)
Ch. 1104, S. L., 1979 (Second Session, 1980)

Sec. 5. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests, whether public or private:

(a) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act.

(b) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken pursuant to or within the scope of any provisions of law repealed by this act.

Sec. 6. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(a) The repeal herein of any act repealing such law, or

(b) Any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

Sec. 7. (a) All existing ordinances and resolutions of the City of Lexington and all existing rules or regulations of departments or agencies of the City of Lexington, not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified or amended.

(b) No action or proceeding of any nature, whether civil or criminal, judicial or administrative, or otherwise, pending at the effective date of this act by or against the City of Lexington or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 8. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 9. Whenever a reference is made in this act to a particular provision of the General Statutes, and such provision is later amended, repealed or superseded, the reference shall be deemed amended to refer to the amended General Statute, or to the General Statute which most clearly corresponds to the statutory provision which is repealed or superseded.

Sec. 10. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 11. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of July, 1981.
H. B. 1329

CHAPTER 907

AN ACT RELATING TO HOUSING ASSISTANCE IN REDEVELOPMENT AREAS AND THE ALLOCATION OF THE CEILING FOR MORTGAGE BONDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-503(19) is amended by deleting the period at the end of subsection d. and substituting therefor "., including the making of loans therefor; and".

Sec. 2. G.S. 160A-503(19) is amended by adding a new subsection at the end to read:

"e. To engage in programs of assistance and financing, including the making of loans, for rehabilitation, repair, construction, acquisition, or reconditioning of residential units in a redevelopment area."

Sec. 3. G.S. 160A-516(d) is amended by adding "either" before "public" and "or private" after "public" in the first sentence; by adding "public" after "Prior to the" in the second sentence; by deleting "to the government" in the second sentence; by deleting "government", where it appears as the last word of the second sentence, and substituting therefor "purchaser"; and by adding "Finance" after "Local Government" in the fourth sentence.

Sec. 4. G.S. 160A-516 is amended by adding a new subsection at the end to read:

"(g) Bonds (including, without limitation, interim and long-term notes) may be issued or sold under this Article at private sale upon such terms and conditions as may be negotiated and mutually agreed upon by the commission and the purchaser (who may be the government or other public or private lender or purchaser)."

Sec. 5. Chapter 280 of the Session Laws of 1981 is amended by adding, at the end, the following:

"The foregoing allocation of the State ceiling shall be reduced from time to time, however, by the aggregate amount (not to exceed thirty million dollars ($30,000,000) per year) of obligations issued in the form of notes by a municipality, commission, or authority (if, and to the extent, such notes are deemed qualified mortgage bonds as defined in 26 U.S.C. § 103A(c) by the United States Department of the Treasury) in the exercise of its powers under the Urban Redevelopment Law (G.S. 160A-500 through G.S. 160A-543) or G.S. 160A-456 and G.S. 160A-457 (relating to community development purposes and activities). The allocation to the North Carolina Housing Finance Agency shall be reduced only from the date and to the extent the Agency receives and approves a written request from a municipality, commission, or authority stating its intent to issue such notes in a specified aggregate amount within 30 days.

The portion of the State ceiling reserved for the issuance of such notes shall be allocated between the municipalities, commissions and authorities by the Agency. In making its allocation the Agency shall consider the priority of filing the written request for allocation, the compliance of the requesting municipality, commission or authority with 26 U.S.C. § 103A et seq., and the availability of an allocation within the portion of the State ceiling allocated to municipalities, commissions and authorities. The Agency shall act on written requests for allocations within 45 days and shall receive such written requests
from the effective date of this act until September 1, 1981, and from January 1
until July 1 of each successive year, after which any remaining unallocated
portion of the portion of the State ceiling allocated to municipalities,
commissions and authorities by this act are hereby reallocated to the Agency
for its use, except as hereinafter provided. This section shall not be construed
to allow the Agency to deny a written request filed by a municipality, commission
or authority prior to September 1, 1981, or prior to July 1 of each successive
year for which a portion of the allocation of the State ceiling to municipalities,
commissions or authorities remains unallocated on September 1, 1981, or on
July 1 of each successive year; provided, that such requests for allocations
comply with the criteria for allocation set forth herein.

If by November 1 of each year the North Carolina Housing Finance Agency
has not declared its intention to use all of its allocation of the State ceiling (as
previously reduced by Agency approval of written requests for allocations
pursuant to the preceding paragraph), the unused portion of the allocation shall
be deemed reallocated to, and reserved for, municipalities, commissions, and
authorities for the issuance of notes, for the remainder of that calendar year.
The reallocated portion of the ceiling shall be available to the municipalities,
commissions, and authorities by submitting a written request to the Agency for
an allocation pursuant to the preceding paragraph; provided, however, that a
request filed after November 1 of each year shall be deemed to be approved if
the Agency does not disapprove the request for allocation within 10 days
following receipt of the written request by the Agency."

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of
July, 1981.

H. B. 1338

CHAPTER 908

AN ACT TO POSTPONE CHANGES IN THE JURY SUMMONS FORM IN
WAKE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 4 of Chapter 1207, Session Laws of 1979 (Second
Session, 1980), is amended by adding the following new language immediately
before the period: "; provided that Section 3 shall not become effective in Wake
County until July 1, 1982".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of
July, 1981.
H. B. 1365  CHAPTER 909
AN ACT TO CHARGE A FEE FOR ISSUING A LICENSE FOR EACH BRANCH OFFICE FOR OPTOMETRISTS TO ENABLE THE BOARD TO BE SELF-SUSTAINING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-123 is amended by adding a new subdivision to read:

“(10) Each duplicate license fee for each branch office 25.00.”

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 9th day of July, 1981.

H. B. 1056  CHAPTER 910
AN ACT TO REWRITE THE NAVIGATION ACT.

The General Assembly of North Carolina enacts:

Section 1. A new Chapter 76A is added to the General Statutes to read:

“ARTICLE 1.

“General Provisions.

“§76A-100. Cape Fear Navigation and Pilotage Commission.—In consideration of the requirement for the safe and expeditious movement of waterborne commerce on the navigable waters of the State, it is deemed necessary to establish the Cape Fear Navigation and Pilotage Commission, hereinafter referred to as the Commission. The Commission shall have the power to license and regulate a group of river pilots familiar with the waters of the Cape Fear River and Bar to best guide vessels within those waters.

“§76A-101. Membership.—The Commission shall consist of five voting members, four appointed by the Governor, and the president of the Wilmington-Cape Fear Pilots Association who shall serve as an ex officio voting member. Of the four members appointed by the Governor three shall be from New Hanover County, one shall be from Brunswick County. One member shall represent maritime interests. The Governor shall designate a member to serve at his pleasure as Chairman. With the exception of the ex officio member, licensed pilots and members of their immediate families shall not be allowed to serve on the Commission.

“§76A-102. Term.—It shall be the duty of the Governor to make initial appointments to the Commission on July 1, 1981. Two of the initial appointees shall serve two-year terms; the other two appointees shall serve four-year terms. All appointees after the initial appointments shall serve four-year terms. Any vacancy in the membership appointed by the Governor shall be filled by the Governor.

“§76A-103. Quorum.—A simple majority of the Commission shall constitute a quorum and may act in all cases.

“§76A-104. Duties and authority.—(a) Rules and regulations, pilotage. The Commission shall make and establish such rules and regulations as necessary and desirable respecting the qualifications, arrangements and station of pilots. In the development of such rules and regulations, the Commission should request the advice of the U.S. Coast Guard, the U.S. Corps of Engineers, the
Pilots Association, other maritime interests and any other party that the Commission might deem beneficial.

(b) Examination and licensing. The Commission may examine such persons who hold a federal pilot's license as may offer themselves to be a pilot on the Cape Fear River and Bar. The examination shall consist of, but not be limited to: a personal interview before the Commission; contact by the Commission with personal references; and a physical examination by a licensed physician based on a standard established by the Commission. Licenses shall be granted for a one-year period.

(c) License renewal. Each license shall be renewed annually provided during the preceding year the holder thereof shall have complied with the provisions of this act and the reasonable rules and regulations as prescribed by the Commission under authority hereof. The Commission may for special considerations validate a license for less than a one-year period. Each license renewal submittal shall be accompanied with a physical examination comparable to the standards set in G.S. 76A-104(b).

(d) Fine, license suspension and cancellation. The Commission shall have the power to fine or call in and suspend or cancel the license of any pilot found to be derelict of duty, in violation of the reasonable rules and regulations as set out by the Commission or for other just cause. Grounds for suspension or cancellation shall include but not be limited to: citation by the Coast Guard and/or Commission for careless or neglectful duty resulting in damage to property or personal harm; absence, neglect of duty, absence from duty for a period longer than four weeks without written submission to and written approval from the Commission chairman; other violations of regulations or in actions found by the Commission to be unduly disruptive of the pilotage and service and/or harmful to person or property.

(e) Pilots to give bond. The Commission shall require of each pilot prior to granting his commission a bond with surety acceptable to the Commission in an amount not to exceed ten thousand dollars ($10,000). Every bond taken of a pilot shall be filed with and preserved by the Commission in trust for every person, firm or corporation, who shall be injured by the neglect or misconduct of such pilots, and any person, firm or corporation, so injured may severally bring suit for the damage by each one sustained.

(f) Jurisdiction over disputes as to pilotage. Disputes between pilots may be voluntarily appealed by one of the pilots to the Commission for resolution. If a resolution is not reached or the Commission decision is unacceptable to either party, normal legal recourse is available to resolve the dispute.

“§ 76A-105. Classes of licenses.—The Commission shall have general authority to issue two classes of licenses:

(1) Limited—a license to pilot vessels whose draft does not exceed 25 feet. Limited licenses may be issued to those who pass requirements established by statute and by the Commission to entitle such person to a limited license.

(2) Full—a license to pilot any vessel. Full license shall be issued to all holders of a limited license who have in the opinion of the Commission satisfactorily served at least one year under a limited license. Additionally the Commission may issue a full license to any one who in the Commission's judgment has sufficient credentials as established under Section 76A-104(b) to perform the pilotage task associated with a full license.
“Pilots.

"§76A-200. Apprentices.—The Commission when it deems necessary for the best interest of the State is hereby authorized to appoint in its discretion apprentices, none of whom shall be less than 21 nor more than 30 years of age, and to make and enforce reasonable rules and regulations relating thereto. Apprentices shall serve for a minimum of one year but no longer than three years in order to be eligible for a limited license. The Commission shall adopt rules and regulations to monitor the progress of apprentices on a regular basis to assure the progressive development of knowledge and skill necessary to obtain a limited license.

"§76A-201. Pilotage association.—In consideration that a mutual association for pilots has been formed, is operational and is expedient for effective management, the Commission shall recognize such a proper pilot association formed for the smooth business transactions in the provision of services. However, the Commission may prescribe such reasonable rules and regulations for the governance of such associations in its direct relationship with the Commission as it deems necessary. Any licensed pilot refusing to become a member of such association shall be subject to suspension or have his license revoked, at the discretion of the Commission.

"§76A-202. Number of pilots.—The Commission shall govern the number of pilots necessary to maintain an efficient pilotage service. Present active pilots shall continue to serve with the Commission’s power of reduction to be effective only in the case of natural attrition except as provided in Section 76A-203. At no time shall the number of active licensed pilots exceed 15. Docking masters shall not be deemed pilots for this section or any other section in this act.

"§76A-203. Pilot retirement.—The Commission shall have and is hereby given authority in its discretion and under such reasonable rules and regulations as it may prescribe to retire from active service any pilot who shall become physically or mentally unfit to perform a pilot’s duties. Provided, however, that no pilot shall be retired, except with his consent for physical or mental disability unless and until such pilots shall have first been examined by the public health officer or county physician of his respective county of residence and such public health officer or physician shall have certified to the board the fact of such physical or mental disability.

"§76A-204. Compulsory use of pilots.—Every foreign vessel and every U.S. vessel sailing under register, including such vessels towing or being towed when underway in the Cape Fear River and Bar and over sixty (60) gross tons, shall employ and take a State-licensed pilot, except when maneuvering during berthing or unberthing operations, shifting within the confines of ports or terminals, passing through bridges, with tug assistance and with a docking master aboard the vessel. Any master of a vessel violating this section shall be guilty of a misdemeanor except as provided for in G.S. 76A-207 and upon conviction the master shall be fined, imprisoned, or both within the discretion of the courts.

"§76A-205. Pilotage rates.—The Commission shall set charges for pilotage services on a published tariff basis to be reviewed and revised annually as necessary. The initial publication of rates and subsequent revisions shall be preceded by public notice at least 30 days prior to publication. The rates may be based on the method chosen by the Commission and may be varied on a geographic or other basis which the Commission deems appropriate. In
establishing pilotage rates the Commission shall consider but not be limited to factors such as vessels' lengths, vessels' drafts, general design of vessels, distances for which pilotage services are to be provided, nature of waters to be traversed and the rates for comparable pilotage services in other ports.

"§ 76A-207. Vessels not liable for pilotage.—Any vessel coming in from sea for harbourage without the assistance of a pilot the wind and weather being such that such assistance or service could not have been reasonably given, shall not be liable for pilotage inward from sea.

"ARTICLE 3.

"Commission Funds.

"§ 76A-300. Expenses of the Commission.—The pilots association shall pay to the Commission according to rules prescribed by the Commission a percentage of pilotage fees not to exceed two percent (2%) per annum for the purpose of providing funds to defray the necessary expense of the Commission. The appropriate percentage shall be set on an annual basis by the Commission. The fees paid shall be deposited to a special account with the State Treasurer in the name of the Commission and shall be administered by the Secretary of Commerce. Surpluses in the account in excess of three thousand dollars ($3,000) at the end of the fiscal year shall be returned to the pilot association on a prorated basis determined and distributed by the Commission.

"§ 76A-301. Widows and Orphans Fund.—The Widows and Orphans Fund established by Chapter 76, Section 7 of the General Statutes shall be dissolved at the earliest possible date under a method to be determined by the Commission. The method of dissolution should be equitable to all current recipients of benefits from the fund and should attempt to make reasonable provision for their future needs in lieu of on-going payments from the fund. Should the Commission determine that the assets of the fund are in excess of those needed to provide for the recipients, it may determine that a portion of the fund may be retained by the Commission and deposited in its operating fund. In such an event the requirement for payment referred to in G.S. 76A-300 shall be suspended until the balance of the operating fund is reduced to three thousand dollars ($3,000) as prescribed in G.S. 76A-300."

Sec. 2. Article 1 of Chapter 76 of the General Statutes is hereby repealed.

Sec. 3. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 9th day of July, 1981.

S. B. 229

CHAPTER 911

AN ACT TO MAKE SUNDRY AMENDMENTS RELATING TO LOCAL GOVERNMENTS IN ORANGE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Carrboro, being Chapter 660, Session Laws of 1969, is amended by adding a new section to read:

"Sec. 5.44. Bikeways. The Town of Carrboro may adopt ordinances regulating the use of bikeways (thoroughfares suitable for bicycles) within the town, whether such bikeways exist within the rights-of-way of public streets or along separate and independent corridors. Without limiting the foregoing, such
ordinances may establish traffic regulations for bicycles travelling in designated bikeways different than those established for other types of vehicular traffic."

Sec. 2. The Charter of the Town of Carrboro is amended by adding the following new Subchapter to Article VI:

"Subchapter D.

"Eminent Domain.

"Sec. 6.63. Eminent Domain. G.S. 160A-248(c) is amended by adding immediately after the words 'third appraiser' the words 'within 15 days after the city has mailed a written notice to both the owner's appraiser and the city's appraiser informing them of the name of each other and requesting them to appoint a third appraiser in accordance with this section', and is further amended by adding at the end of the section the words 'The clerk must make the appointment within 15 days after application is made'.

"Sec. 6.64. Purposes For Which Powers of Eminent Domain May Be Exercised. The power of eminent domain may be exercised by the Town of Carrboro for any purpose authorized by general law or by this Charter. Without limiting the foregoing, as applied to the Town of Carrboro the phrase 'streets, alleys, and sidewalks' contained in G.S. 160A-241(1) shall be deemed to include bikeways, bikepaths, and other facilities designed for travel by the bicycleriding public, whether or not combined with streets, sidewalks, paths, or other public ways used for transportation by vehicles or pedestrians. Any proceeding commenced by the Town of Carrboro before the effective date of this section to condemn any interests or interests in real property for the purpose of constructing such a bikeway or bikepath is hereby fully approved and ratified.'

Sec. 3. The Charter of the Town of Carrboro, as found in Chapter 660, Session Laws of 1969, is amended by adding a new section to read:

"Sec. 4.144. Conveyance of Property Acquired Within Redevelopment or Community Development Areas. Notwithstanding the provisions of Articles 12 and 22 of G.S. 160A or any other provision of law, the Town of Carrboro may, in selling property acquired within a redevelopment area or a community development area, reject the highest responsible bid and accept a lesser bid when the board of aldermen finds that:

(1) The proposed use or development of the land under the bid proposed for acceptance will result in an assessed valuation for ad valorem taxation greater than that of the use or uses proposed by the higher bidders; or

(2) The proposed use or development of the land under the bid proposed for acceptance will have a substantially greater beneficial effect upon neighboring property, the redevelopment or community development area, or the community as a whole than the use or uses proposed by the higher bidders, or will tend to induce greater investment in the development of other property in the area; or

(3) The proposed use or development of the land under the bid proposed for acceptance will facilitate the relocation of persons or firms displaced by redevelopment or community development projects to a substantially greater degree than the use or uses proposed by the higher bidders.

The findings set forth above shall be contained in a resolution, duly adopted by the board of aldermen, authorizing the sale.'

Sec. 4. Notwithstanding any provision of the State Building Code or any public or local law to the contrary, a town is authorized to require by ordinance the inclusion of sprinklers in all buildings in excess of 50 feet in height.
constructed within the corporate limits of the town after the effective date of said ordinance.

Sec. 5. G.S. 160A-486 is amended by labeling the present section as subsection (a) and adding thereto a new subsection (b) to read as follows:

"(b) Whenever a city council reasonably believes that the Federal Decennial Census has seriously undercounted the city's actual population, it may request the Office of State Budget and Management to conduct a one hundred percent (100%) municipal census as provided in this subsection, and the Office of State Budget and Management shall thereafter use the census figures derived from this census, rather than the Federal Decennial Census figures, to determine the city's population for all purposes for which, under general law, the budget officer is required to make such a determination.

(1) For purposes of this subsection, a city's population was 'seriously undercounted' if the city's actual population on federal 'census day' (April 1, 1980) exceeded the final population figures estimated by the U. S. Bureau of Census by more than five percent (5%).

(2) A request under this subsection must be made by resolution of the governing body of the requesting city. The resolution shall set forth the basis for the city’s reasonable belief that the federal census has seriously undercounted the city's actual population. This belief may be based upon a sample survey or actual population count conducted by the city, estimates based on utility records, or any other reasonably reliable and persuasive evidence.

(3) Subject to subdivision (4), in responding to a request under this subsection, the Office of State Budget and Management shall conduct the census according to the standard procedures usually followed by that Office in conducting one hundred percent (100%) municipal censuses.

(4) If a request under this subsection is received by the State Budget Officer before August 1, 1981, the Office of State Budget and Management shall conduct the census as soon after September 1, 1981, as possible so that the population figures derived therefrom can be certified for use by any State department or division distributing revenue to municipalities on or after October 1, 1981."

Sec. 6. (a) Section 2.1(c) of the Charter of the Town of Chapel Hill (Section 2.2(c) under local revision pursuant to G.S. 160A-496) is rewritten to read:

"(c) The mayor shall be elected at biennial elections for a term of two years subject to the provisions of Section 2.3 of this Charter. No person shall be eligible to be elected to mayor for more than four successive two-year terms."

(b) This section shall become effective beginning with the 1983 municipal election.

Sec. 7. Section 2.4 of the Charter of the Town of Chapel Hill (Section 2.3 under local revision pursuant to G.S. 160A-496), as rewritten by Chapter 1107, Session Laws of 1979 (Second Session 1980) is amended by rewriting subdivision (1) to read:

"(1) A vacancy occurring in the office of mayor, which occurs on or before the 40th day prior to the 1981 town election shall be filled by the town council only until that election, at which time a mayor shall be elected to serve the remainder of the unexpired term. A vacancy occurring in the office of mayor
which occurs at any other time shall be filled by appointment of the town council for the remainder of the unexpired term.”

Sec. 8. G.S. 115C-37(d) is amended by deleting “December”, and inserting in lieu thereof the word “July”.

Sec. 9. The Board of County Commissioners may provide by ordinance that the owner of every lot within the county on which there exist eight or more dwelling units for rent shall, no later than January 30th of each year, furnish to the tax supervisor the name and address of every person occupying any such dwelling units on January 1st of that year.

Sec. 10. The Charter of the Town of Carrboro, as found in Chapter 660, Session Laws of 1969, is amended by adding a new Subchapter to Chapter V to read:

“Subchapter F.

“Trespass.

“Sec. 5.140. Trespass. The town may, by ordinance, make it a misdemeanor for any person to refuse to vacate any land, building, or facility owned, leased, or otherwise occupied, used or under the possession of the Town of Carrboro, when directed to do so by an order of the town manager, any police officer, or the town administrative official or employee in charge of such land, building, or facility.”

Sec. 11. Sections 1, 2, 3, and 10 of this act apply only to the Town of Carrboro. Sections 6 and 7 of this act apply only to the Town of Chapel Hill. Sections 4 and 5 of this act apply only to the Towns of Carrboro and Chapel Hill. Section 8 of this act applies only to the Orange County Board of Education. Section 9 of this act applies only to Orange County.

Sec. 12. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of July, 1981.

S. B. 126

CHAPTER 912

AN ACT TO TRANSFER THE RESPONSIBILITY FOR TRANSPORTATION OF AUTISTIC CHILDREN FROM THE DEPARTMENT OF HUMAN RESOURCES TO THE DEPARTMENT OF PUBLIC EDUCATION AND TO MAKE A TECHNICAL CORRECTION.

Whereas, the General Assembly has appropriated about sixty thousand dollars ($60,000) per year to the Department of Human Resources for purposes of transporting autistic and communications handicapped children under G.S. 115-11.2(b); and

Whereas, the Department has transferred that money to the Department of Public Education and therefore the legal responsibility for such transportation should also be transferred; and

Whereas, there is adequate statutory authority for the Department of Human Resources to transport deaf and blind children at State residential facilities in other statutes; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Chapter 423 of the 1981 Session Laws is amended by rewriting G.S. 115C-250, as it appears therein, to read:

“§ 115C-250. Authority to expend funds for transportation of children with special needs.—(a) The State Board of Education is authorized to expend public
funds or to otherwise provide motor vehicle transportation for children with special needs as those children are defined by G.S. 115C-109. Such transportation may be provided for nonresidential students to and from the nearest public educational institution or sheltered workshop located within the State when said students are full time equivalent students in the public schools. Such transportation also may be provided for nonresidential students to and from the nearest appropriate private school having a special education program approved by the State Board of Education if the children to be transported are, or have been placed in that program by the State or by a local school administrative unit as a result of the State’s or the unit’s duty to provide such children with a free appropriate public education.

(b) Funds appropriated for the transportation of children with special needs may be used to pay transportation safety assistants employed in accordance with the provisions of G.S. 115C-245(e) for buses to which children with special needs are assigned."

Sec. 2. Section 3 of Chapter 562 of the 1981 Session Laws is amended by rewriting the language before the colon to read:

"Sec. 3. G.S. Chapter 115C, as enacted by Chapter 423 of the 1981 Session Laws, is amended by adding a new section G.S. 115C-126.1, to read" and by deleting the reference "G.S. 115-343" and substituting the reference "G.S. 115C-126.1".

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.

S. B. 233 CHAPTER 913
AN ACT TO AMEND THE DEFINITION OF "DEVELOPMENT" AND TO CLARIFY HEARING RIGHTS IN THE COASTAL AREA MANAGEMENT ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113A-103(5)b.5. is rewritten to read:

"5. Maintenance or repairs (excluding replacement) necessary to repair damage to structures caused by the elements or to prevent damage to imminently threatened structures by the creation of protective sand dunes."

Sec. 2. G.S. 113A-121(d) is repealed.

Sec. 3. Part 4 of Chapter 113A of the General Statutes is amended by adding a new section to read:

"§113A-121A. Review of grant or denial of permits.—(a) Any person who is directly affected by the decision of the Secretary or the designated local official (as the case may be) to grant or deny an application for a minor development permit, may request in writing within 20 days of such action, a hearing before the Commission. In the case of a grant or denial of a permit by a local official, the Secretary shall be considered to be a person affected by the decision.

(b) Any person who is directly affected by the decision of the Commission or its duly authorized agent to grant or deny an application for a major development permit may submit a written request, within 20 days of such action, for a hearing before the Commission.

(c) Requests for a hearing by any person other than the applicant or the Secretary shall be reviewed by the Commission or its duly authorized agent to
determine whether a hearing should be granted. The determination of whether to grant a hearing shall be in the sole discretion of the Commission or its duly authorized agent and shall be based on consideration of the following factors:

1. Whether the petitioner has alleged that the decision was contrary to applicable statutes and/or regulations;
2. Whether the petitioner is a person directly affected by the decision;
3. Whether, upon consideration of all the information available, the petitioner has a reasonable likelihood of success on the merits.

Denial of a request for a hearing pursuant to this paragraph shall be a final decision of the Commission which may be appealed under G.S. 113A-123.

(d) Pending final disposition of any such review by the Commission, no action shall be taken which would be unlawful in the absence of a permit under this Part.

(e) In cases where the request for a hearing has been denied under paragraph (c) of this section, development authorized by the permit may be undertaken unless prohibited by an order of the superior court."

Sec. 4. G.S. 113A-122(a), as it appears in the 1979 Supplement to Volume 3A, Part II, is amended on the third line by deleting the citation “G.S. 113A-121(d)” and substituting therefor the citation “G.S. 113A-121A”.

Sec. 5. G.S. 113A-122(b)(7), as it appears in the 1978 Replacement Volume 3A, Part II, is rewritten to read:

"7. The burden of proof at any hearing on appeal shall be upon the person who requested the hearing."

Sec. 6. G.S. 113A-122(b)(9), as it appears in the 1978 Replacement Volume 3A, Part II, is amended on the second line by deleting the words “30 days” and substituting therefor the words “20 days”.

Sec. 7. This act is effective upon ratification. In the General Assembly read three times and ratified, this the 10th day of July, 1981.

S. B. 418

CHAPTER 914

AN ACT TO PROVIDE THAT THE MAGISTRATES’ SENIORITY SALARY STEPS TAKE EFFECT ON THE ANNIVERSARY DATE OF APPOINTMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-171.1 is amended by rewriting the portion of subsection (1) preceding the Table of Salaries to read as follows:

“(1) A full-time magistrate, so designated by the Administrative Officer of the Courts, shall be paid the annual salary indicated in the table below according to the number of years he has served as a magistrate. The salary steps shall take effect on the anniversary of the date the magistrate was originally appointed.”

Sec. 2. This act shall become effective July 1, 1981, and shall apply to magistrates reaching their anniversary date of service on or after that date.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.
CHAPTER 915  Session Laws—1981

S. B. 730  CHAPTER 915
AN ACT TO RESOLVE A CONFLICT BETWEEN CHAPTER 501, SESSION LAWS OF 1981 AND G.S. 105-282.1 CONCERNING ANNUAL APPLICATION FOR HISTORIC PROPERTY EXEMPTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-282.1(a)(3) is amended in line 3 by adding immediately after the numeral "(12)", the citation "or G.S. 105-278".

Sec. 2. This act shall become effective January 1, 1982.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.

H. B. 7  CHAPTER 916
AN ACT TO ELIMINATE SURCHARGES ON CLEAN RISKS AND CONTINUE THE CAP ON AUTOMOBILE INSURANCE RATES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-124.26 is rewritten to read:

"§ 58-124.26. Cap on motor vehicle insurance rate increases.—Notwithstanding any other provisions of law, with respect to nonfleet private passenger motor vehicle liability, physical damage, medical payments, uninsured motorist, and underinsured motorist insurance, the North Carolina Rate Bureau shall not increase the total combined general rate level for such coverages by more than the percentage increase in the Consumer Price Index that occurred during the period beginning with the sixteenth month and ending with the fourth month prior to the filing under G.S. 58-124.20. The provisions of this section shall not apply to rates or rating plans filed by or on behalf of the North Carolina Motor Vehicle Reinsurance Facility. For the purpose of this section, the term 'Consumer Price Index' means the Consumer Price Index for All Urban Consumers (all items United States city average), as published by the Bureau of Labor Statistics of the United States Department of Labor or any successor agency: Provided that the provisions of this section shall expire on July 1, 1983."

Sec. 2. G.S. 58-248.34(e) is amended by striking from line 13 the following:

"either through surcharging persons reinsured by the Facility or".

Sec. 3. G.S. 58-248.34(f) is rewritten to read:

"(f) The Plan of Operation shall provide that every member shall, following payment of any pro rata assessment, commence recoupment of that assessment by way of an identifiable surcharge on motor vehicle insurance policies issued by the member or through the Facility until the assessment has been recouped. Such surcharge shall be a percentage of premium adopted by the Board of Governors of the Facility. Provided, however, that recoupment of losses sustained by the Facility since September 1, 1977, with respect to nonfleet private passenger motor vehicles may be recouped only by surcharging policies (i) that are subject to the classification plan promulgated pursuant to G.S. 58-30.4 and (ii) to which one or more driving record points have been assigned pursuant to said plan. If the amount collected during the period of surcharge exceeds assessments paid by the member to the Facility, the member shall pay over the excess to the Facility on a date specified by the Board of Governors. If
the amount collected during the period of surcharge is less than the assessments paid by the member to the Facility, the Facility shall pay the difference to the member. Except as hereinafter provided, the amount of recoupment shall not be considered or treated as a rate or premium for any purpose. The Board of Governors shall adopt and implement a plan for compensation of agents of Facility members when recoupment surcharges are imposed; such compensation shall not exceed the compensation or commission rate normally paid to the agent for the issuance or renewal of the automobile liability policy issued through the North Carolina Reinsurance Facility affected by such surcharge; provided, however, that the surcharge provided for in this section shall include an amount necessary to recover the amount of the assessment to member companies and the compensation paid by each member, pursuant to this section, to agents."

Sec. 3 (a). G.S. 58-30.4 is amended in line 17 by adding before the word, "The" the following:

"The subclassification plan shall provide that in policies insuring more than one motor vehicle and insured, driving record points for chargeable accidents and moving traffic violations shall be apportioned among and assigned to the motor vehicles so insured."

Sec. 4. The provisions of this act shall apply only to policies that are issued or renewed on or after the respective effective dates of this act.

Sec. 5. Sections 1 and 4 and this section are effective on ratification. Sections 2, 3, and 3(a) shall become effective on October 1, 1981.
In the General Assembly read three times and ratified, this the 10th day of July, 1981.

H. B. 195 CHAPTER 917

AN ACT TO ESTABLISH A WORK OPTIONS PROGRAM FOR STATE EMPLOYEES.

The General Assembly of North Carolina enacts:

Section 1. A new "Article 12" is added to Chapter 126 of the General Statutes to read:

"ARTICLE 12.

"Work Options Program for State Employees.

"§ 126-69. Work Options Program established.—There is established a Work Options Program for State Employees in the Division of State Personnel to be administered by the State Personnel Commission. The State Personnel Director shall assign an employee within the Division of State Personnel, to be known as the State Work Options Coordinator, to direct the Work Options Program as established in this Article.

"§ 126-70. Work options for State employees.—(a) The following work options allowed State employees are to be included in the program administered under this Article:

(1) Flexible work hours as established by the State Personnel Commission;
(2) Job sharing as permitted by the State Personnel Commission;
(3) Permanent part-time positions as established under the State Personnel Act.

(b) The State Personnel Commission shall examine the present options listed in subsection (a) of this section available to State employees and other options
the State Personnel Commission may make available for a comprehensive program of work options for State employees. The State Personnel Commission shall, with the concurrence of the agency, determine the need for additional permanent part-time positions within State Government and how increased use of these positions could benefit employee morale and productivity as well as increase the use of the available labor force. None of the provisions of this Article shall be administered to reduce the total number of hours per day a State office normally is open to serve the public.

“§126-71. Promoting Work Options Program.—The State Personnel Commission shall develop a program to expand the use of work options. This program shall include training sessions for agency personnel to instruct them in the use of work options available to State employees. The State Personnel Commission shall also provide technical assistance to agency personnel in developing a Work Options Program for each agency or expanding existing programs in each agency. The Work Options Coordinator shall also identify personnel positions within the State Personnel System which can effectively be structured in job sharing or permanent part-time employment positions.

“§126-72. Authority of agencies to participate.—The State Personnel Commission shall request from each agency assistance in formulating the Work Options Program. Any division, department, agency, instrumentality or authority shall participate in the program of work options as established in this Article.

“§126-73. Administration.—The State Personnel Commission and any State division, department, agency, instrumentality or authority participating in the State Work Options Program shall promulgate rules necessary for the administration of the program pursuant to Chapter 150A, ‘The Administrative Procedures Act’.

“§126-74. Report required.—The State Personnel Commission shall require a biennial report of each State division, department, agency, instrumentality or authority on the status of the Work Options Program. The State Personnel Commission shall in turn make a biennial report to the General Assembly on the status of the Work Options Program, including any increase in the use of job sharing, flexible work hours and any other approved work option for State employees.”

Sec. 2. Nothing herein contained shall be construed to obligate the General Assembly to appropriate any additional funds, nor permit coverage under the Teachers’ and State Employees’ Retirement System and health benefits program in Articles 1 and 3 of Chapter 135 except as otherwise provided for therein.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.
H. B. 455

CHAPTER 918
AN ACT TO CHANGE THE NAME AND RESTRUCTURE THE STATE LIBRARY COMMITTEE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-53 and the title to Part 16 of Article 2 of Chapter 143B of the General Statutes are amended by deleting the words "State Library Committee" and substituting the words "State Library Commission".

Sec. 2. G.S. 143B-90 is rewritten to read:
"§ 143B-90. State Library Commission; creation, powers and duties.—There is hereby created the State Library Commission of the Department of Cultural Resources. The State Library Commission has the following functions and duties:

(1) to advise the Secretary of Cultural Resources on matters relating to the operation and services of the State Library;

(2) to suggest programs to the Secretary to aid in the development of libraries statewide;

(3) to advise the Secretary upon any matter the Secretary might refer to it;

(4) to evaluate and approve the State Plan for Public Library Development;

(5) to evaluate and approve the State Plan for Multitype Library Cooperation;

(6) to evaluate and approve plans for federally funded library programs;

(7) to evaluate and approve State Library policies for the acquisition of library materials; and

(8) to serve as a search committee to seek out, interview, and recommend to the Secretary one or more experienced and professionally trained librarians for the position of Director of the Division of State Library when a vacancy occurs, and to assist and cooperate with the Secretary in periodic reviews of the performance of the Director and the Division."

Sec. 3. G.S. 143B-91 is rewritten to read:
"§ 143B-91. State Library Commission; members; selection; quorum; compensation.—The State Library Commission shall consist of 11 members. Six members shall be appointed by the Governor and the other five members shall be the following officers of the North Carolina Library Association: President; Chairman of the Public Libraries Section; Chairman of the College and University Section; Chairman of the Junior College Section; and Chairperson of the North Carolina Association of School Libraries Section.

Members of the State Library Committee appointed by the Governor shall continue as members of the State Library Commission for the remainder of the terms to which appointed. Thereafter all appointments by the Governor shall be for six-year terms. Any appointment to fill a vacancy in one of the positions appointed by the Governor shall be for the remainder of the unexpired term. Officers of the North Carolina Library Association shall serve as members of the Commission for the duration of their terms as officers of the Association.

The Governor shall choose a chairman from among the members of the Commission. The chairman shall serve not more than two successive two-year terms as chairman.

Members of the Commission shall receive per diem and necessary travel and subsistence expenses as provided in G.S. 138-5."
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A majority of the Commission shall constitute a quorum for the transaction of business.

All clerical and other services required by the Commission shall be supplied by the Secretary of Cultural Resources."

Sec. 4. In each place it appears in the General Statutes the phrase "State Library Committee" is amended to read "State Library Commission", and in each place in which the word "Committee" appears in reference to the State Library Committee that word is changed to "Commission".

Sec. 5. Current forms, stationery, signs and other materials carrying the name State Library Committee shall be used until they would otherwise be replaced, and no State funds other than then current appropriations to the Department of Cultural Resources for the State Library Committee may be used in effectuating the change of the name of the State Library Committee to the State Library Commission. Replacements for current forms, stationery, signs and other materials shall carry the new name of the agency.

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.

H. B. 518  CHAPTER 919

AN ACT TO REVISE THE LAW OF EMINENT DOMAIN AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 40 of the General Statutes is hereby repealed and a new Chapter 40A is inserted in lieu thereof to read as follows:

"Chapter 40A.

"Eminent Domain.

"ARTICLE I.

"General.

"§ 40A-1. Exclusive provisions.—It is the intent of the General Assembly that the procedures provided by this Chapter shall be the exclusive condemnation procedures to be used in this State by all private condemnsors and all local public condemnsors. All other provisions in laws, charters, or local acts authorizing the use of other procedures by municipal or county governments or agencies or political subdivisions thereof, or by corporations, associations or other persons are hereby repealed effective January 1, 1982. Provided, that any condemnation proceeding initiated prior to January 1, 1982, may be lawfully completed pursuant to the provisions previously existing.

This act shall not repeal any provision of a local act enlarging or limiting the purposes for which property may be condemned. Notwithstanding the language of G.S. 40A-3(b), this act also shall not repeal any provision of a local act creating any substantive or procedural requirement or limitation on the authority of a local public condemnor to exercise the power of eminent domain outside of its boundaries.

"§ 40A-2. Definitions.—As used in this Chapter the following words and phrases have the meanings indicated unless the context clearly requires another meaning:

(1) 'Condemnation' means the procedure prescribed by law for exercising the power of eminent domain.

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(2) 'Condemnor' means those listed in G.S. 40A-3.

(3) 'Eminent domain' means the power to divest right, title or interest from the owner of property and vest it in the possessor of the power against the will of the owner upon the payment of just compensation for the right, title or interest divested.

(4) 'Judge' means a resident judge of the superior court in the district where the cause is pending, or special judge residing in said district, or a judge of the superior court assigned to hold the courts of said district or an emergency or special judge holding court in the county where the cause is pending.

(5) 'Owner' includes the plural when appropriate and means any person having an interest or estate in the property.

(6) 'Person' includes the plural when appropriate and means a natural person, and any legal entity capable of owning or having interest in property.

(7) 'Property' means any right, title, or interest in land, including leases and options to buy or sell. 'Property' also includes rights of access, rights-of-way, easements, water rights, air rights, and any other privilege or appurtenance in or to the possession, use, and enjoyment of land.

"§ 40A-3. By whom right may be exercised.—(a) Private Condemnors. For the public use or benefit, the persons or organizations listed below shall have the power of eminent domain and may acquire by purchase or condemnation property for the stated purposes and other works which are authorized by law.

1) Corporations, bodies politic or persons have the power of eminent domain for the construction of railroads, power generating facilities, substations, switching stations, microwave towers, roads, alleys, access railroads, turnpikes, street railroads, plank roads, tramroads, canals, telegraphs, telephones, electric power lines, electric lights, public water supplies, flumes, bridges, and pipelines or mains originating in North Carolina for the transportation of petroleum products, coal, gas, limestone or minerals.

2) School committees or boards of trustees or of directors of any corporation holding title to real estate upon which any private educational institution is situated, have the power of eminent domain in order to obtain a pure and adequate water supply for such institution.

3) Franchised motor vehicle carriers or union bus station companies organized by authority of the Utilities Commission, have the power of eminent domain for the purpose of constructing and operating union bus stations: Provided, that this subdivision shall not apply to any city or town having a population of less than sixty thousand.

4) Any railroad company has the power of eminent domain for the purposes of: constructing union depots; maintaining, operating, improving or straightening lines or of altering its location; constructing double tracks; constructing and maintaining new yards and terminal facilities or enlarging its yard or terminal facilities; connecting two of its lines already in operation not more than six miles apart; or constructing an industrial siding ordered by the Utilities Commission as provided in G.S. 62-232.

The width of land condemned for any single or double track railroad purpose shall be not less than 80 feet nor more than 100 feet, except where the road may run through a town, where it may be of less width, or where there may be deep cuts or high embankments, where it may be of greater width.
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No rights granted or acquired under this subsection shall in any way destroy or abridge the rights of the State to regulate or control any railroad company or to regulate foreign corporations doing business in this State. Whenever it is necessary for any railroad company doing business in this State to cross the street or streets in a town or city in order to carry out the orders of the Utilities Commission, to construct an industrial siding, the power is hereby conferred upon such railroad company to occupy such street or streets of any such town or city within the State. Provided, license so to do be first obtained from the board of aldermen, board of commissioners, or other governing authorities of such town or city.

No such condemnor shall be allowed to have condemned to its use, without the consent of the owner, his burial ground, usual dwelling house and yard, kitchen and garden, unless condemnation of such property is expressly authorized by statute.

The power of eminent domain shall be exercised by private condemnors under the procedures of Article 2 of this Chapter.

(b) Local Public Condemnors. For the public use or benefit, the governing body of each municipality or county shall possess the power of eminent domain and may acquire by purchase, gift or condemnation any property, either inside or outside its boundaries, for the following purposes.

1. Opening, widening, extending, or improving roads, streets, alleys, and sidewalks. The authority contained in this subsection is in addition to the authority to acquire rights-of-way for streets, sidewalks and highways under Article 9 of Chapter 136. The provisions of this subdivision (1) shall not apply to counties.

2. Establishing, extending, enlarging, or improving any of the public enterprises listed in G.S. 160A-311 for cities, or G.S. 153A-274 for counties.

3. Establishing, enlarging, or improving parks, playgrounds, and other recreational facilities.

4. Establishing, extending, enlarging, or improving storm sewer and drainage systems and works.

5. Establishing, enlarging, or improving hospital facilities, cemeteries, or library facilities.

6. Constructing, enlarging, or improving city halls, fire stations, office buildings, courthouse jails and other buildings for use by any department, board, commission or agency.

7. Establishing drainage programs and programs to prevent obstructions to the natural flow of streams, creeks and natural water channels or improving drainage facilities. The authority contained in this subdivision is in addition to any authority contained in Chapter 156.

8. Acquiring designated historic properties, for which an application has been made for a certificate of appropriateness for demolition, in pursuance of the purposes of G.S. 160A-399.3, Chapter 160A, Article 19, Part 3B.

9. Opening, widening, extending, or improving public wharves.

The board of education of any municipality or county or a combined board may exercise the power of eminent domain under this Chapter for purposes authorized by other statutes.
The power of eminent domain shall be exercised by local public condemnor
under the procedures of Article 3 of this Chapter.
(c) Other Public Condemnors. For the public use or benefit, the following
political entities shall possess the power of eminent domain and may acquire
property by purchase, gift, or condemnation for the stated purposes.
(1) A sanitary district board established under the provisions of Article 12
of Chapter 130 for the purpose stated in that Article.
(2) The board of commissioners of a mosquito control district established
under the provisions of Article 24 of Chapter 130 for the purposes stated
in that Article.
(3) A hospital authority established under the provisions of Article 12 of
Chapter 131 for the purposes stated in that Article, provided, however,
that the provisions of G.S. 131-112 shall continue to apply.
(4) A watershed improvement district established under the provisions of
Article 2 of Chapter 139 for the purposes stated in that Article,
provided, however, that the provisions of G.S. 139-38 shall continue to
apply.
(5) A housing authority established under the provisions of Article 1 of
Chapter 157 for the purposes of that Article, provided, however, that
the provisions of G.S. 157-11 shall continue to apply.
(6) A corporation as defined in G.S. 157-50 for the purposes of Article 3 of
Chapter 157, provided, however, the provisions of G.S. 157-50 shall
continue to apply.
(7) A commission established under the provisions of Article 22 of Chapter
160A for the purposes of that Article.
(8) An authority created under the provisions of Article 1 of Chapter 162A
for the purposes of that Article, provided, however, the provisions of
G.S. 162A-7 shall continue to apply.
(9) A district established under the provisions of Article 4 of Chapter 162A
for the purposes of that Article.
(10) A district established under the provisions of Article 5 of Chapter 162
for purposes of that Article.

The power of eminent domain shall be exercised by a public condemnor listed
in this subsection under the procedures of Article 3 of this Chapter.

§ 40A-4. No prior purchase offer necessary.—The power to acquire property
by condemnation shall not depend on any prior effort to acquire the same
property by gift or purchase, nor shall the power to negotiate for the gift or
purchase of property be impaired by initiation of condemnation proceedings.

§ 40A-5. Condemnation of property owned by other condemnors.—(a) A
condemnor listed in G.S. 40A-3(a), (b) or (c) shall not possess the power of
eminent domain with respect to property owned by the State of North Carolina
unless the State consents to the taking. The State’s consent shall be given by
the Council of State, or by the Secretary of Administration if the Council of
State delegates this authority to him. In a condemnation proceeding against
State property consented to by the State, the only issue shall be the
compensation to be paid for the property.

(b) Unless otherwise provided by statute a condemnor listed in G.S. 40A-3(a),
(b) or (c) may condemn the property of a private condemnor if such property is
not in actual public use or not necessary to the operation of the business of the
owner. Unless otherwise provided by statute a condemnor listed in G.S.
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40A-3(b) or (e) may condemn the property of a condemnor listed in G.S. 40A-3(b) or (c) if the property proposed to be taken is not being used or held for future use for any governmental or proprietary purpose.

"§ 40A-6. Reimbursement of owner for taxes paid on condemned property.—An owner whose property is totally taken in fee simple by a condemnor exercising the power of eminent domain, under this Chapter or any other statute shall be entitled to reimbursement from the condemnor of the pro rata portion of real property taxes paid by the owner which are allocable to a period subsequent to vesting of title in the condemnor, or the effective date of possession of such real property, whichever is earlier.

"§ 40A-7. Acquisition of whole parcel or building.—(a) When the proposed project requires condemnation of only a portion of a parcel of land leaving a remainder of such shape, size or condition that it is of little value, a condemnor may acquire the entire parcel by purchase or condemnation. If the remainder is to be condemned the petition filed under the provisions of G.S. 40A-21 or the complaint filed under the provision of G.S. 40A-42 shall include:

(1) A determination by the condemnor that a partial taking of the land would substantially destroy the economic value or utility of the remainder; or
(2) A determination by the condemnor that an economy in the expenditure of public funds will be promoted by taking the entire parcel; or
(3) A determination by the condemnor that the interest of the public will be best served by acquiring the entire parcel.

(b) Residues acquired under this section may be sold or disposed of in any manner provided for the disposition of property, or may be exchanged for other property needed by the condemnor.

c) When the proposed project requires condemnation of a portion of a building or other structure, the condemnor may acquire the entire building or structure by purchase or condemnation, together with the right to enter upon the surrounding land for the purpose of removing the building or structure. If the entire building is to be condemned the petition filed under the provisions of G.S. 40A-21, or the complaint filed under the provisions of G.S. 40A-42 shall include a determination by the condemnor either:

(1) That an economy in the expenditure of public funds will be promoted by acquiring the entire building or structure; or
(2) That it is not feasible to cut off a portion of the building or structure without destroying the whole; or
(3) That the convenience, safety, or improvement of the project will be promoted by acquiring the entire building or structure. Nothing in this subsection shall be deemed to compel the condemnor to condemn the underlying fee of the portion of any building or structure that lies outside the project.

"§ 40A-8. Costs.—(a) In any action under the provisions of Article 2 or Article 3 of this Chapter, the court in its discretion may award to the owner a sum to reimburse the owner for charges he has paid for appraisers, engineers and plats, provided such appraisers or engineers testify as witnesses, and such plats are received into evidence as exhibits by order of the court.

(b) If a condemnor institutes a proceeding to acquire by condemnation any property and (i) if the final judgment in a resulting action is that the condemnor is not authorized to condemn the property, or (ii) if the condemnor abandons
the action, the court with jurisdiction over the action shall after making appropriate findings of fact award each owner of the property sought to be condemned a sum that, in the opinion of the court based upon its findings of fact, will reimburse the owner for: his reasonable costs; disbursements; expenses (including reasonable attorney, appraisal, and engineering fees); and, any loss suffered by the owner because he was unable to transfer title to the property from the date of the filing of the complaint under G.S. 40A-42.

(c) If an action is brought against a condemnor under the provisions of G.S. 40A-21 or G.S. 40A-52 seeking compensation for the taking of any interest in property by the condemnor and judgment is for the owner the court shall award to the owner as a part of the judgment after appropriate finding of fact a sum that, in the opinion of the court based upon its finding of fact, will reimburse the owner as set out in subsection (b).

"§ 40A-9. Removal of structures on condemned land; lien.—At the request of the owner the condemnor shall allow the owner of property acquired by condemnation to remove any timber, building, permanent improvement, or fixture wholly or partially located on or affixed to the property unless such removal would be inconsistent with the purpose for which condemnation is made, and shall specify a reasonable time within which it may be removed. If the report of the Commissioners deducted the value of any such property to be removed from the award of compensation and allowed the cost of removal as an element of damages and the owner fails to remove it within the time allowed, the condemnor may remove it and the cost of the removal and storage of the property shall be chargeable against the owner and a lien upon any remainder of the property not acquired by the condemnor to be recovered or foreclosed in the manner provided by law for recovery of debt or foreclosure of mortgages.

"§ 40A-10. Sale or other disposition of land condemned.—When any property condemned by the condemnor is no longer needed for the purpose for which it was condemned, it may be used for any other public purpose or may be sold or disposed of in the manner prescribed by law for the sale and disposition of surplus property.

"§ 40A-11. Right of entry prior to condemnation.—Any condemnor without having filed a petition or complaint, depositing any sum or taking any other action provided for in this Chapter, is authorized to enter upon any lands, but not structures, to make surveys, borings, examinations, and appraisals as may be necessary or expedient in carrying out and performing its rights or duties under this Chapter. The condemnor shall give 30 days' notice in writing to the owner at his last known address and the party in possession of the land of the intended entry authorized by this section.

Entry under this section shall not be deemed a trespass or taking within the meaning of this Chapter, however, the condemnor shall make reimbursement for any damage resulting from such activities, and the owner is entitled to bring an action to recover for the damage. If the owner recovers damages of twenty-five percent (25%) over the amount offered by the condemnor for reimbursement for its activities the court, in its discretion, may award reasonable attorney fees to the owner.

"§ 40A-12. Additional rules.—Where the procedure for conducting an action under this Chapter is not expressly provided for in this Chapter or by the statutes governing civil procedure, or where the civil procedure statutes are inapplicable, the judge before whom such proceeding may be pending shall have
the power to make all the necessary orders and rules of procedure necessary to carry into effect the object and intent of this Chapter. The practice in each case shall conform as near as may be to the practice in other civil actions.

"§ 40A-13. Costs and appeal.—In addition to any reimbursement provided for in G.S. 40A-8 the condemnor shall pay all court costs taxed by the court. Either party shall have a right of appeal to the Appellate Division for errors of law committed in any proceedings provided for in this Chapter in the same manner as in any other civil actions and it shall not be necessary that an appeal bond be posted.

"§ § 40A-14 to 40A-19: Reserved for future codification purposes.

"ARTICLE 2.

"Condemnation Proceedings by Private Condemnors.

"§ 40A-20. Proceedings by private condemnors.—Any private condemnor enumerated in G.S. 40A-3(a), possessing by law the right of eminent domain in this State shall have the right to acquire property required for the purposes of its incorporation or for the purposes specified in this Chapter in the manner and by the special proceedings herein prescribed.

"§ 40A-21. Petition filed; contents.—For the purpose of acquiring property a condemnor listed in G.S. 40A-3(a), or the owner of the property sought to be condemned, may present a petition to the clerk of the superior court of any county in which the real estate described in the petition is situated, praying for the appointment of commissioners of appraisal. The petition shall be signed and verified. If filed by the condemnor, it must contain a description of the property which the condemnor seeks to acquire; and it must state that the condemnor is duly incorporated, and that it is its intention in good faith to conduct and carry on the public business authorized by its charter, stating in detail the nature of its public business, and the specific use of the property; and that the property described in the petition is required for the purpose of conducting the proposed business. The petition, if filed by the condemnor, must also contain a statement as to whether the owner will be permitted to remove all or a specified portion of any buildings, structures, permanent improvements, or fixtures situated on or affixed to the land. The petition, whether filed by the condemnor or the owner, must also state the names and places of residence of all other owners, so far as the same can by reasonable diligence be ascertained, or those who claim to be owners of the property. If any such persons are infants, their ages, as near as may be known, must be stated; and if any such persons are incompetents, inebriates or are unknown, that fact must be stated, together with any other allegations and statements of liens or encumbrances on the property which the condemnor or the owner may see fit to make.

Nothing in this section shall in any manner affect an owner's common law right to bring an action in tort for damage to his property.

"§ 40A-22. Notice of proceedings.—Notice of all proceedings brought hereunder shall be filed with the clerk of superior court of each county in which any part of the land is located in the form and manner provided by G.S. 1-116, and the clerk shall index and cross-index this notice as required by G.S. 1-117. In the record of lis pendens and in the judgment docket required by G.S. 7A-109 the clerk shall always index the name of the condemnor as the plaintiff and the name of the property owner as the defendant irrespective of whether the condemning party is the plaintiff or defendant. The filing of such notice shall be constructive notice of the proceeding to any person who subsequently acquires
any interest in or lien upon said property, and the condemnor shall take all property condemned under this Article free of the claims of any such person.

"§ 40A-23. Service.—A summons as in other cases of special proceedings, together with a copy of the petition, must be served on all persons whose estates or interests are to be affected by the proceedings, at least 10 days prior to the hearing of the same by the court.

"§ 40A-24. Service where parties unknown.—If the person on whom service of summons and petition is to be made is unknown, or his residence is unknown and cannot by reasonable diligence be ascertained, then service may be made by publishing a notice, stating the time and place within which such person must appear and plead, the object thereof, with a description of the land to be affected by the proceedings, in accordance with the provisions of G.S. 1A-1, Rule 4(j)(9)c. In such cases the State Treasurer shall be served as custodian of the Escheat Fund and may become a party to the action.

"§ 40A-25. Orders served as in special proceedings in absence of other provisions.—In all cases not herein otherwise provided for, service of orders, notices, and other papers in the special proceedings authorized by this Chapter may be made as in other special proceedings.

"§ 40A-26. Answer to petition; hearing; commissioners appointed.—On presenting such petition to the clerk of superior court, with proof of service of a copy thereof, and of the summons, all or any of the persons whose estates or interests are to be affected by the proceedings may answer such petition and show cause against granting the prayer of the same. The clerk shall hear the proofs and allegations of the parties, and if no sufficient cause is shown against granting the prayer of the petition, shall make an order for the appointment of three commissioners and shall fix the time and place for the first meeting of the commissioners. Each commissioner shall be a resident of the county wherein the property being condemned lies who has no right, title, or interest in or to the property condemned, is not related within the third degree to the owner or to the spouse of the owner, is not an officer, employee or agent of the condemnor, and is disinterested in the rights of the parties in every way.

"§ 40A-27. Powers and duties of commissioners.—The commissioners, before entering upon the discharge of their duties, shall take and subscribe an oath that they will fairly and impartially appraise the property in the petition. Anyone of them may issue subpoenas, administer oaths to witnesses, and any two of them may adjourn the proceedings before them from time to time, in their discretion. Whenever they meet, except by the appointment of the clerk or pursuant to adjournment, they shall cause 10 days' notice of such meeting to be given to the parties who are affected by their proceedings, or their attorney or agent. They shall view the premises described in the petition, hear the proofs and allegations of the parties, and reduce the testimony, if any is taken by them, to writing. After the testimony is closed in each case, and without any unnecessary delay, and before proceeding to the examination of any other claim, a majority of the commissioners being present and acting, shall ascertain and determine the compensation which ought justly to be made by the condemnor to the owners of the property appraised by them. The commissioners shall determine the compensation to be awarded in accordance with the principles established by Article 4 of this Chapter. They shall report the same to the clerk within 10 days.
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"§40-28. Form of commissioners' report.—When the commissioners shall have assessed the compensation, they shall forthwith make and subscribe a written report of their proceedings, in substance as follows: To the Clerk of the Superior Court of ________:  

We, ________, commissioners appointed by the court to assess the damages that have been and will be sustained by ________, the owner of certain property lying in the county of ________, which ________ the condemnor proposes to condemn for its use, do hereby certify that we met on ________ (or the day to which we were regularly adjourned), and, having first been duly sworn, we visited the premises of the owner, and after taking into full consideration the quality and quantity of the property aforesaid, and all other inconveniences likely to result to the owner, we have estimated and do assess the compensation aforesaid at the sum of $__________.

Given under our hands, the ________ day of ________, A.D. 19____.

"§40A-29. Exceptions to report; hearing; when title vests; appeal; restitution.—(a) Upon the filing of the report, the clerk shall forthwith mail copies to the parties. Within 20 days after the filing of the report any party to the proceedings may file exceptions thereto. The clerk, after notice to the parties, shall hear any exceptions so filed and may thereafter direct a new appraisal, modify or confirm the report, or make such other orders as the clerk may deem right and proper.

(b) If no exceptions are filed to the report, and if the clerk's final judgment rendered upon the petition and proceedings shall be in favor of the condemnor, and upon the deposit by the condemnor of the sum adjudged, together with all cost allowed, into the office of the clerk of superior court, then, in that event, all owners who have been made parties to the proceedings shall be divested of the property or interest therein to the extent set forth in the proceedings. A copy of the judgment, certified under the seal of the court, shall be registered in the county or counties where the land is situated, and the original judgment, or a certified copy thereof, or a certified copy of the registered judgment, may be given in evidence in all actions and proceedings as deeds for property are now allowed in evidence.

(c) Any party to the proceedings may file exceptions to the clerk's final determination on any exceptions to the report and may appeal to the judge of superior court having jurisdiction. Notice of appeal shall be filed within 10 days of the clerk's final determination. Upon appeal the clerk shall transfer the proceedings to the civil issue docket of the superior court. A judge in session shall hear and determine all matters in controversy and, subject to G.S. 40A-30 regarding trial by jury, shall determine any issues of compensation to be awarded in accordance with the provisions of Article 4 of this Chapter.

(d) Notwithstanding the filing of exceptions by any party to any orders or final determination of the clerk or the filing of a notice of appeal to the superior court, the condemnor may, at the time of the filing of the report of commissioners, deposit with the clerk of superior court in the proceedings the sum appraised by the commissioners and, in that event, the condemnor may enter, take possession of, and hold said property in the manner and to the extent sought to be acquired by the proceedings until final judgment is rendered on any appeal.

(e) If, on appeal, the judge shall refuse to condemn the property, then the money deposited with the clerk of court in the proceedings, or so much thereof
as shall be adjudged, shall be refunded to the condemnor and the condemnor shall have no right to the property and shall surrender possession of the same, on demand, to the owner. The judge shall have full power and authority to make such orders, judgments and decrees as may be necessary to carry into effect the final judgment rendered in such proceedings, including compensation in accordance with the provisions of G.S. 40A-8.

(i) If the amount adjudged to be paid the owner of any property condemned under this Article shall not be paid within 60 days after final judgment in the proceedings, the right under the judgment to take the property shall ipso facto cease and determine, but the claimant under the judgment shall still remain liable for all amounts adjudged against said claimant except the compensation awarded for the taking of the property.

(g) The provisions of this section shall not preclude any injunctive relief otherwise available to the owner or the condemnor.

"§ 40A-30. Provision for jury trial on appeal.—In any proceedings under this Article by a condemnor to acquire property, any party to the proceedings shall be entitled on appeal to superior court to have the amount of compensation determined by a jury unless trial by jury has been waived by all parties. A jury shall determine the compensation to be awarded in accordance with the provisions of Article 4 of this Chapter.

"§ 40A-31. Title of infants, incompetents, inebriates, and trustees without power of sale, acquired.—In case any property required by a condemnor shall be vested in any trustee not authorized to sell, release and convey the same, or in any infant, incompetent, or inebriate, the superior court shall have power, by a special proceeding, on petition, to authorize and empower such trustee or the general guardian or committee of such infant, incompetent or inebriate, to sell and convey the same to such condemnor, on such terms as may be just. In case any infant, incompetent or inebriate has no general guardian or committee, the court may appoint a special guardian or committee for the purpose of making a sale, release or conveyance, and may require security from the general or special guardian or committee as the court may deem proper. Before any conveyance or release authorized by this section shall be executed, the terms on which it is to be executed shall be reported to the court on oath. If the court is satisfied that the terms are just to the owner of the property, the court shall confirm the report and direct the proper conveyance or release to be executed, which shall have the same effect as if executed by an owner of the property having legal power to sell and convey the same.

"§ 40A-32. Rights of claimants of fund determined.—If there are adverse and conflicting claimants to the money, or any part of it, to be paid as compensation for the property taken, the clerk or the judge on appeal may direct the money to be paid into the court by the condemnor, and may determine who is entitled to the same and direct to whom the same shall be paid, and may order a reference to ascertain the facts on which such determination and order are to be made.

"§ 40A-33. Attorney for unknown parties appointed; pleadings amended; new commissioners appointed.—(a) The clerk or the judge on appeal shall appoint some competent attorney to appear for and protect the rights of any party in interest who is unknown or whose residence is unknown, and who has not appeared in the proceedings by an attorney or agent, and shall make an allowance to said attorney for his services which shall be taxed in the bill of
costs. In such cases the State Treasurer as custodian of the Escheat Fund shall be notified of the appointment of such an attorney.

(b) The clerk or the judge on appeal shall have power at any time to amend any defect or informality in any of the special proceedings authorized by this Chapter as may be necessary, or to cause new parties to be added, and to direct such further notices to be given to any party in interest as it deems proper; and also to appoint other commissioners in place of any who shall die, refuse or neglect to serve or be incapable of serving.

“§ 40A-34. Change of ownership pending proceedings.—When any proceedings under this Article shall have been commenced, no change of ownership by voluntary conveyance or transfer of the property shall in any manner affect such proceedings, but the same may be carried on and perfected as if no such conveyance or transfer had been made or attempted to be made.

“§ 40A-35. Defective title; how cured.—If at any time after an attempt to acquire title under this Article has commenced it shall be found that the title thereby attempted to be acquired is defective, the condemnor may commence new proceedings to acquire or perfect such title in the same manner as if no previous attempt had been commenced. At any stage in the new proceedings the court may authorize the condemnor, if in possession, to continue in possession, and if not in possession, to take possession and use the property during the pendency and until the final conclusion of the new proceedings. If the condemnor pays into court a sum determined by the court to be adequate compensation for the property, the court, in its discretion, may stay all actions or proceedings against the condemnor for its possession. In every such case the party interested in the property may conduct the proceedings to a conclusion if the condemnor delays or omits to prosecute the same.

“§§ 40A-36 to 40A-41: Reserved for future codification purposes.

“ARTICLE 3.

“Condemnation by Public Condemnors.

“§ 40A-41. Notice of action.—Not less than 30 days prior to the filing of a complaint under the provisions of G.S. 40A-42, a public condemnor listed in G.S. 40A-3(b) or (c) shall provide notice to each owner of its intent to institute an action to condemn property. The notice shall contain a general description of the property to be taken and of the amount estimated by the condemnor to be just compensation for the property to be condemned. The notice shall also state the purpose for which the property is being condemned and the date the condemnor intends to take possession of the property.

“§ 40A-42. Institution of action and deposit.—A public condemnor listed in G.S. 40A-3(b) or (c) shall institute a civil action to condemn property by filing in the superior court of any county in which the land is located a complaint containing a declaration of taking declaring that property therein is thereby taken for the use of the condemnor.

The complaint shall contain or have attached thereto the following:

a. A statement of the authority under which and the public use for which the property is taken;

b. A description of the entire tract or tracts of land affected by the taking sufficient for the identification thereof;

c. A statement of the property taken and a description of the area taken sufficient for the identification thereof;
d. The names and addresses of those persons who the condemnor is informed and believes may be or, claim to be, owners of the property so far as the same can by reasonable diligence be ascertained, and if any such persons are infants, incompetents, inebriates or under any other disability, or their whereabouts or names unknown, it must be so stated;

e. A statement of the sum of money estimated by the condemnor to be just compensation for the taking; and

f. A statement as to whether the owner will be permitted to remove all or a specified portion of any timber, buildings, structures, permanent improvements, or fixtures situated on or affixed to the property.

g. A statement as to such liens or other encumbrances as the condemnor is informed and believes are encumbrances upon the property and can by reasonable diligence be ascertained.

h. A prayer that there be a determination of just compensation in accordance with the provisions of this Article. The filing of the complaint shall be accompanied by the deposit to the use of the owner of the sum of money estimated by the condemnor to be just compensation for the taking. Upon the filing of the complaint and the deposit of said sum, summons shall be issued to each owner of the property. The summons, together with a copy of the complaint and notice of the deposit shall be served upon the person named therein in the manner provided for the service of process under the provisions of G.S. 1A-1, Rule 4. The condemnor may amend the complaint and may increase the amount of its deposit with the court at any time while the proceeding is pending, and the owner shall have the same rights of withdrawal of this additional amount as set forth in G.S. 40A-45 of this Chapter.

"§ 40A-43. Vesting of title and right of possession; injunction not precluded.—

(a) When a local public condemnor is acquiring property by condemnation for a purpose set out in G.S. 40A-3(b)(1),(4) or (7), or when a city is acquiring property for a purpose set out in G.S. 160A-311(1), (2), (3), (4), (6), or (7), or when a county is acquiring property for a purpose set out in G.S. 153A-274(1), (2) or (3), title to the property and the right to immediate possession shall vest pursuant to this subsection. Unless an action for injunctive relief has been initiated, title to the property specified in the complaint, together with the right to immediate possession thereof, shall vest in the condemnor upon the filing of the complaint and the making of the deposit in accordance with G.S. 40A-42.

(b) When a local public condemnor is acquiring property by condemnation for purposes other than for the purposes listed in subsection (a) above, title to the property taken and the right to possession shall vest in the condemnor pursuant to this subsection. Unless an action for injunctive relief has been initiated, title to the property specified in the complaint, together with the right to immediate possession thereof, shall vest in the condemnor:

(1) upon the filing of an answer by the owner who requests only that there be a determination of just compensation and who does not challenge the authority of the condemnor to condemn the property; or

(2) upon the failure of the owner to file an answer within the 120-day time period established by G.S. 40A-47; or

(3) upon the disbursement of the deposit in accordance with the provisions of G.S. 40A-45.

(c) If the property is owned by a private condemnor, the vesting of title in the condemnor and the right to immediate possession of the property shall not
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become effective until the superior court has rendered final judgment (after any appeals) that the property is not in actual public use or is not necessary to the operation of the business of the owner, as set forth in G.S. 40A-5(b).

(d) If the answer raises any issues other than the issue of compensation, the issues so raised shall be determined under the provisions of G.S. 40A-48.

(e) The judge shall enter such orders in the cause as may be required to place the condemnor in possession.

(f) The provisions of this section shall not preclude or otherwise affect any remedy of injunction available to the owner or the condemnor.

§ 40A-44. Memorandum of action.—The condemnor, at the time of the filing of the complaint containing the declaration of taking and deposit of estimated compensation, shall record a memorandum of action with the register of deeds in all counties in which the land involved is located and said memorandum shall be recorded among the land records of said county. Upon the amending of any complaint affecting the property taken, the condemnor shall record a supplemental memorandum of action. The memorandum of action shall contain:

(1) The names of those persons who the condemnor is informed and believes to be or claim to be owners of the property and who are parties to said action;

(2) A description of the entire tract or tracts affected by said taking sufficient for the identification thereof;

(3) A statement of the property taken for public use;

(4) The date of institution of said action, the county in which said action is pending, and such other reference thereto as may be necessary for the identification of said action.

§ 40A-45. Disbursement of deposit.—Where there is no dispute as to title the person named in the complaint may apply to the court for disbursement of the money deposited in the court, or any part thereof, as full compensation, or as a credit against just compensation without prejudice to further proceedings in the cause to determine just compensation. Upon such application, the judge shall order that the money deposited be paid forthwith to the person entitled thereto in accordance with the application. Subject to the provisions of G.S. 40A-71 the judge shall have power to make such orders with respect to encumbrances, liens, rents, taxes, assessments, insurance and other charges, if any, as shall be just and equitable.

No notice to the condemnor of the hearing upon the application for disbursement of deposit shall be necessary.

§ 40A-46. Answer, reply and plat.—(a) Any person whose property has been taken by the condemnor by the filing of a complaint containing a declaration of taking, may within the time set forth in G.S. 40A-47 file an answer to the complaint. No answer shall be filed to the declaration of taking and notice of deposit. Said answer shall contain the following:

(1) Such admissions or denials of the allegations of the complaint as are appropriate;

(2) The names and addresses of the persons filing said answer, together with a statement as to their interest in the property taken;

(3) Such affirmative defenses or matters as are pertinent to the action; and

(4) A request that there be a determination of just compensation.

(b) A copy of the answer shall be served on the condemnor provided that failure to serve the answer shall not deprive the answer of its validity. The
affirmative allegations of said answer shall be deemed denied. The condemnor may, however, file a reply within 30 days from receipt of a copy of this answer.

(c) The condemnor, within 90 days from the receipt of the answer shall file in the cause a plat of the property taken and such additional area as may be necessary to properly determine the compensation, and a copy thereof shall be mailed to the parties or their attorney; provided, however, the condemnor shall not be required to file a map or plat in less than six months from the date of the filing of the complaint.

"§ 40A-47. Time for filing answer; failure to answer.—Any person named in and served with a complaint containing a declaration of taking shall have 120 days from the date of service thereof to file answer. Failure to answer within said time shall constitute an admission that the amount deposited is just compensation and shall be a waiver of any further proceeding to determine just compensation; in such event the judge shall enter final judgment in the amount deposited and order disbursement of the money deposited to the owner. Provided, however, at any time prior to the entry of the final judgment the judge may, for good cause shown and after notice to the condemnor extend the time for filing answer for 30 days.

"§ 40A-48. Determination of issues other than damages.—The judge, upon motion and 10 days notice by either the condemnor or the owner, shall, either in or out of session, hear and determine any and all issues raised by the pleadings other than the issue of compensation, including, but not limited to, the condemnor’s authority to take, questions of necessary and proper parties, title to the land, interest taken, and area taken.

"§ 40A-49. Appointment of commissioners.—(a) A request to the clerk for the appointment of commissioners to determine compensation for the taking may be made in the answer of the owner, or may be made by motion of either the owner or the condemnor within 60 days after the filing of the answer. After the determination of other issues as provided by G.S. 40A-48, the clerk shall appoint three competent, disinterested persons residing in the county to serve as commissioners. The commissioners shall be sworn and shall go upon the land to appraise the compensation for the property taken and report their findings to the court within a time certain. Each commissioner shall be a person who has no right, title, or interest in or to the property being condemned, is not related within the third degree to the owner or to the spouse of the owner, is not an officer, employee, or agent of the condemnor, and is disinterested in the rights of the parties in every way.

(b) The commissioners shall have the power to inspect the property, hold hearings, swear witnesses, and take evidence as they may, in their discretion, deem necessary, and shall file with the court a report of their determination of the damages sustained.

(c) The report of commissioners shall be in writing and in a form substantially as follows:

TO THE SUPERIOR COURT OF _______________ COUNTY
We, _______________ and _______________ Commissioners appointed by the Court to assess the compensation to be awarded to __________, the owner of property interest in certain land lying in __________ County, North Carolina, which has been taken by the __________ (condemnor), for public purposes, do hereby certify that we convened, and, having first been duly sworn, visited the premises, and took such evidence as was presented to us, and after taking into
full consideration the quality and quantity of the land and all other facts which reasonably affect its fair market value at the time of the taking, we have determined the fair market value of the property taken to be the sum of $________ and the compensation for the damage to the remainder of the land of the owner by reason of the taking to be the sum of $________ (if applicable).

GIVEN under our hands, this the _______ day of __________, 19____
_____________________________________________(SEAL)
_____________________________________________(SEAL)
_____________________________________________(SEAL)

(d) A copy of the report shall at the time of filing be mailed certified or registered mail by the clerk to each of the parties or to their counsel of record. Within 30 days after the mailing of the report, either the condemnor or the owner, may except thereto and demand a trial de novo by a jury as to the issue of compensation. Upon the receipt of such demand the action shall be placed on the civil issue docket of the superior court for trial de novo by a jury as to the issue of compensation, provided, that upon agreement of both parties trial by jury may be waived and the issue determined by the judge. The report of commissioners shall not be competent as evidence upon the trial of the issue of compensation in the superior court, nor shall evidence of the deposit by the condemnor into the court be competent upon the trial of the issue of compensation. If no exception to the report of commissioners is filed within the time prescribed, final judgment shall be entered by the judge upon a determination and finding by him that the report of commissioners plus interest computed in accordance with G.S. 40A-54 of this Chapter, awards to the property owners just compensation. In the event that the judge is of the opinion and, in his discretion, determines that the award does not provide just compensation, he shall set aside the award and order the case placed on the civil issue docket for determination of the issue of compensation by a jury.

"§ 40A-50. No request for commissioners.—After the determination of other issues as provided by G.S. 40A-48, if no request has been made for the appointment of commissioners within the time permitted by G.S. 40A-49(a), the cause shall be transferred to the civil issue docket for trial as to the issue of just compensation.

"§ 40A-51. Parties, orders; continuances.—The judge shall appoint an attorney to appear for and protect the rights of any party or parties in interest who are unknown, or whose residence is unknown and who has not appeared in the proceeding by an attorney or agent. The State Treasurer as custodian of the Escheat Fund shall be notified of the appointment of such an attorney. The judge shall appoint guardians ad litem for such parties as are infants, incompetents, or other parties who may be under a disability, and without general guardian, and the judge shall have the authority to make such additional parties as are necessary to the complete determination of the proceeding.

Upon his own motion, or upon motion of any of the parties the judge may, in his discretion, continue the cause until the project is completed or until such earlier time as, in the opinion of the judge, the effect of condemnation upon said property may be determined. The motion may be heard at a hearing pursuant to G.S. 40A-48 or upon the coming on of the cause for trial, and shall be granted upon a proper showing that the effect of condemnation upon the subject property cannot presently be determined.

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§ 40A-52. Remedy where no declaration of taking filed; recording memorandum of action.—(a) If property has been taken by an act or omission of a condemnor listed in G.S. 40A-3(b) or (c) and no complaint containing a declaration of taking has been filed by the owner of the property, may initiate an action to seek compensation for the taking. The action may be initiated within 24 months of the date of the taking of the affected property or the completion of the project involving the taking, whichever shall occur later. The complaint shall be filed in the superior court and shall contain the following: the names and places of residence of all persons who are, or claim to be, owners of the property, so far as the same can by reasonable diligence be ascertained; if any persons are under a legal disability, it must be so stated; a statement as to any encumbrances on the property; the particular facts which constitute the taking together with the dates that they allegedly occurred, and; a description of the property taken. Upon the filing of said complaint summons shall issue and together with a copy of the complaint be served on the condemnor. The allegations of said complaint shall be deemed denied; however, the condemnor within 60 days of service summons and complaint may file answer thereto. If the taking is admitted by the condemnor, it shall, at the time of filing the answer, deposit with the court the estimated amount of compensation for the taking. Notice of the deposit shall be given to the owner. The owner may apply for disbursement of the deposit and disbursement shall be made in accordance with the applicable provisions of G.S. 40A-45. If a taking is admitted, the condemnor shall, within 90 days of the filing of the answer to the complaint, file a map or plat of the property taken. The procedure hereinbefore set out in this Article and in Article 4 shall be followed for the purpose of determining all matters raised by the pleadings and the determination of just compensation.

(b) The owner at the time of filing of the complaint shall record a memorandum of action with the register of deeds in all counties in which the property involved is located. The memorandum is to be recorded among the land records of the county. The memorandum of action shall contain:

1. The names of those persons who the owner is informed and believes to be or claim to be owners of the property;
2. A description of the entire tract or tracts affected by the alleged taking sufficient for the identification thereof;
3. A statement of the property allegedly taken; and
4. The date on which owner alleges the taking occurred, the date on which said action was instituted, the county in which it was instituted, and such other reference thereto as may be necessary for the identification of said action.

(c) Nothing in this section shall in any manner affect an owner’s common law right to bring an action in tort for damage to his property.

§ 40A-53. Measure of compensation.—The commissioners, jury or judge shall determine the issue of compensation in accordance with the provisions of Article 4 of this Chapter.

§ 40A-54. Interest as a part of just compensation.—To the amount awarded as compensation by the commissioners or a jury or judge, the judge shall add interest at the rate of six percent (6%) per annum on said amount from the date of taking to the date of judgment. Interest shall not be allowed from the date of deposit on so much thereof as shall have been paid into court as provided in this Article.
"§ 40A-55. Final judgments.—Final judgments entered in actions instituted under the provisions of this Article shall contain a description of the land affected, together with a description of the property acquired by the condemnor and a copy of said judgment shall be certified to the register of deeds in each county in which the land or any part thereof lies and be recorded among the land records of said county.

"§ 40A-56. Payment of compensation.—If there are adverse and conflicting claimants to the deposit made into the court by the condemnor or the additional amount determined as just compensation, on which the judgment is entered in said action, the judge may direct the full amount determined to be paid into said court by the condemnor and may retain said cause for determination of who is entitled to said moneys. The judge may by further order in the cause direct to whom the same shall be paid and may in its discretion order a reference to ascertain the facts on which such determination and order are to be made.

"§ 40A-57. Refund of deposit.—In the event the amount of the final judgment is less than the amount deposited by the condemnor pursuant to the provisions of this Article, the condemnor shall be entitled to recover the excess of the amount of the deposit over the amount of the final judgment and court costs incident thereto. In the event there are not sufficient funds on deposit to cover said excess, the condemnor shall be entitled to a judgment for said sum against the person or persons having received said deposit.

"§ § 40A-58 to 40A-64: Reserved for future codification purposes.

"ARTICLE 4.

"Just Compensation.

"§ 40A-65. Application.—The principles set down in this Article shall govern the determination of compensation to be awarded to the owner by the condemnor for the taking of his property.

"§ 40A-66. In general.—The determination of the amount of compensation shall reflect the value of the property immediately prior to the filing of the petition under G.S. 40A-21 or the complaint under G.S. 40A-42 and except as provided in the following sections shall not reflect an increase or decrease due to the condemnation. The day of the filing of a petition or complaint shall be the date of valuation of the interest taken.

"§ 40A-67. Compensation for taking.—(a) Except as provided in subsection (b), the measure of compensation for a taking of property is its fair market value.

(b) If there is a taking of less than the entire tract, the measure of compensation is the greater of either (1) the amount by which the fair market value of the entire tract immediately before the taking exceeds the fair market value of the remainder immediately after the taking; or (2) the fair market value of the property taken.

(c) If the owner is to be allowed to remove any timber, building or other permanent improvement of fixtures from the property, the value thereof shall not be included in the compensation award, but the cost of removal shall be considered as an element to be compensated.

"§ 40A-68. Effect of condemnation procedure on value.—(a) The value of the property taken, or of the entire tract if there is a partial taking, does not include an increase or decrease in value before the date of valuation that is caused by (1) the proposed improvement or project for which the property is taken; (2) the reasonable likelihood that the property would be acquired for that
improvement or project; or (3) the condemnation proceeding in which the property is taken.

(b) If before completion the project is expanded or changed to require the taking of additional property, the fair market value of the additional property does not include a decrease in value before the date of valuation caused by any of the factors described in subsection (a), but does include an increase in value before the date on which it became reasonably likely that the expansion or change of the project would occur, if the increase is caused by any of the factors described in subsection (a).

(c) Notwithstanding subsections (a) and (b), a decrease in value before the date of valuation which is caused by physical deterioration of the property within the reasonable control of the property owner, and by his unjustified neglect, may be considered in determining value.

“§ 40A-69. Compensation to reflect project as planned.—(a) If there is a taking of less than the entire tract, the value of the remainder on the valuation date shall reflect increases or decreases in value caused by the proposed project including any work to be performed under an agreement between the parties.

(b) The value of the remainder, as of the date of valuation, shall reflect the time the damage or benefit caused by the proposed improvement or project will be actually realized.

“§ 40A-70. Entire tract.—For the purpose of determining compensation under this Article, all contiguous tracts of land that are in the same ownership and are being used as an integrated economic unit shall be treated as if the combined tracts constitute a single tract.

“§ 40A-71. Acquisition of property subject to lien.—Notwithstanding the provisions of an agreement, if any, relating to a lien encumbering the property:

(1) If there is a partial taking, the lienholder may share in the amount of compensation awarded only to the extent determined by the commissioners or by the jury or by the judge to be necessary to prevent an impairment of his security, and the lien shall continue upon the part of the property not taken as security for the unpaid portion of the indebtedness until it is paid; and

(2) Neither the condemnor nor owner is liable to the lienholder for any penalty for prepayment of the debt secured by the lien, and the amount awarded by the judgment to the lienholder shall not include any penalty therefor.

“§ 40A-72. Property subject to life tenancy.—If the property taken is subject to a life tenancy, the commissioners, the jury, or the judge may include in the judgment a requirement that:

(1) the award be apportioned and distributed on the basis of the respective values of the interests of the life tenant and remainderman;

(2) the compensation be used to purchase comparable property to be held subject to the life tenancy;

(3) the compensation be held in trust and administered subject to the terms of the instrument that created the life tenancy; or

(4) any other equitable arrangement be carried out.”

Sec. 2. G.S. 62-183 as the same appears in the 1975 Replacement Volume 2B is hereby amended by deleting the second and third sentences thereof in their entirety.

Sec. 3. G.S. 62-185 as the same appears in the 1975 Replacement Volume 2B is hereby amended by deleting the first paragraph thereof after the word
“corporation” on line 4 and inserting in lieu thereof the words “it may condemn the said interest through the procedures of the Chapter entitled Eminent Domain”.

**Sec. 4.** G.S. 62-186 is hereby repealed.

**Sec. 5.** G.S. 62-187 as the same appears in the 1975 Replacement Volume 2B is hereby amended on lines 8 and 9 by deleting the words “Article 2 entitled Condemnation Proceedings of”, and inserting in lieu thereof the word and figure “Chapter 40A”.

**Sec. 6.** G.S. 62-188 as the same appears in the 1975 Replacement Volume 2B is hereby repealed.

**Sec. 7.** G.S. 63-6 as the same appears in the 1981 Replacement Volume 2C is hereby amended on lines 4, 5, 6, 7 and 8 by deleting the words “law under which the city, town and/or county is or are authorized to acquire real property for public purposes, other than street purposes, or if there be no such law, in the manner provided for and subject to the provisions of the condemnation law” and inserting in lieu thereof the words “Chapter 40A”.

**Sec. 8.** G.S. 63-49(b) as the same appears in the 1981 Replacement Volume 2C is hereby amended on lines 5, 6, and 7 by deleting the words “law under which such municipality is authorized to acquire like property for public purposes” and inserting in lieu thereof the words “Chapter entitled Eminent Domain”.

**Sec. 9.** Article 2 and Article 3 of Chapter 73 are hereby repealed.

**Sec. 10.** G.S. 77-11 as the same appears in the 1981 Replacement Volume 2C is hereby amended at the end of the first paragraph by adding a new sentence to read as follows: “The board shall at that time initiate proceedings under the Chapter entitled Eminent Domain”; and is further amended by deleting the second and third paragraphs in their entirety.

**Sec. 11.** G.S. 115-125 as the same appears in the 1978 Replacement Volume 3A is hereby amended on line 10 by deleting the words and figures “Article 2, of Chapter 40” and inserting in lieu thereof the word and figure “Chapter 40A”.

**Sec. 12.** G.S. 117-2(7) as the same appears in the 1981 Replacement Volume 3B is hereby amended by adding at the end thereof a new sentence to read as follows:

“For the purposes of exercising the powers of eminent domain the North Carolina Rural Electrification Authority shall be deemed a private condemnor and shall follow the procedures of Chapter 40A for a private condemnor.”

**Sec. 13.** G.S. 130-130 as the same appears in the 1981 Replacement Volume 3B is hereby amended on line 8 of the text by deleting the figure “40” and inserting in lieu thereof the figure “40A”; and is further amended by deleting the last two sentences thereof.

**Sec. 14.** G.S. 130-166.47 as the same appears in the 1981 Replacement Volume 3B is hereby amended on line 6 of the text by deleting the figure “40” and inserting in lieu thereof the figure “40A”.

**Sec. 15.** G.S. 130-213(6) as the same appears in the 1981 Replacement Volume 3B is hereby amended on line 8 by deleting the figure “40” and inserting in lieu thereof the figure “40A”.

**Sec. 16.** G.S. 131-15 as the same appears in the 1981 Replacement Volume 3B is hereby amended on line 7 of the text by deleting the words “law
for the condemnation of land for railroads" and inserting in lieu thereof "the Chapter entitled Eminent Domain".

**Sec. 17.** G.S. 131-28.14 as the same appears in the 1981 Replacement Volume 3B is hereby amended on lines 5 and 6 of the text by deleting the words "law for the condemnation of land for railroads" and inserting in lieu thereof "the Chapter entitled Eminent Domain".

**Sec. 18.** G.S. 131-99 as the same appears in the 1981 Replacement Volume 3B is hereby rewritten to read as follows:

"§131-99. Eminent domain.—The authority shall have the right to acquire by eminent domain any real property, including fixtures and improvements, which it may deem necessary to carry out the purposes of this Article under the procedures of Chapter 40A. Property already devoted to a public use may be acquired, provided, that no property belonging to any city, town, or county or to any government or to any religious or charitable corporation or to any existing hospital or clinic may be acquired without its consent and that no property belonging to a public utility corporation may be acquired without the approval of the commission or other officer or tribunal, if any there be, having regulatory power over such corporation."

**Sec. 19.** G.S. 139-38(d) as the same appears in the 1978 Replacement Volume 3C is hereby amended on lines 2 and 3 by deleting the word and figures "40, Article 2," and inserting in lieu thereof the figure "40A".

**Sec. 20.** G.S. 153A-159 through G.S. 153A-162 are hereby repealed.

**Sec. 21.** G.S. 153A-158 as the same appears in the 1978 Replacement Volume 3C is hereby amended by adding a new sentence at the end thereof to read as follows: "In exercising the power of eminent domain a county shall use the procedures of Chapter 40A."

**Sec. 22.** G.S. 153A-292 as the same appears in the 1978 Replacement Volume 3C is hereby amended on line 4 of the third paragraph by deleting the figure "40" and inserting in lieu thereof the figure "40A".

**Sec. 23.** G.S. 156-1 as the same appears in the 1978 Replacement Volume 3C is hereby rewritten to read as follows:

"§156-1. Supplemental proceeding.—The proceedings initiated under this Chapter may be, to the extent practicable, supplemented by the procedures of Chapter 40A."

**Sec. 24.** G.S. 156-67 as the same appears in the 1978 Replacement Volume 3C is hereby amended on lines 7 and 8 by deleting the words "substantially as provided by law for the condemnation of rights-of-way for railroads so far as the same may be applicable" and inserting in lieu thereof the words "of either: (1) G.S. 40-11 to 40-29, both inclusive; (2) Any other applicable statutory provisions now in force or hereafter enacted for the exercise of the power of eminent domain" and inserting in lieu thereof the words and figure "of Chapter 40A."

**Sec. 25.** G.S. 157-11 as the same appears in the 1976 Replacement Volume 3D is hereby amended on lines 7, 8, 9 and 10 by deleting the words and figures: "of either: (1) G.S. 40-11 to 40-29, both inclusive; (2) Any other applicable statutory provisions now in force or hereafter enacted for the exercise of the power of eminent domain" and inserting in lieu thereof the words and figure "of Chapter 40A."

**Sec. 26.** G.S. 157-50 as the same appears in the 1976 Replacement Volume 3D is hereby amended on lines 5 through 8 of the second paragraph by deleting the words and figures "either: (1) G.S. 40-11 to 40-29, both inclusive; (2) Any other applicable statutory provisions, now in force or hereafter enacted for

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the exercise of the power of eminent domain” and inserting in lieu thereof the word and figure “Chapter 40A.”

Sec. 27. G.S. 159B-33 as the same appears in the 1976 Replacement Volume 3D is hereby amended on line 4 by deleting the words and figures “Article 11 of Chapter 160A” and inserting in lieu thereof the following word and figure “Chapter 40A”.

Sec. 28. G.S. 160A-240 through G.S. 160A-263 are hereby repealed.

Sec. 29. Article 11 of Chapter 160A is hereby amended by adding a new section to read as follows:

“§ 160A-240.1. Power to acquire property.—A city may acquire, by gift, grant, devise, bequest, exchange, purchase, lease, or any other lawful method, the fee or any lesser interest in real or personal property or use by the city or any department, board, commission or agency of the city. In exercising the power of eminent domain a city shall use the procedures of Chapter 40A.”

Sec. 30. G.S. 160A-515 as the same appears in the 1976 Replacement Volume 3D is hereby rewritten to read as follows:

“§ 160A-515. Eminent domain.—The commission may exercise the right of eminent domain in accordance with the provisions of Chapter 40A.”

Sec. 31. G.S. 162A-36(a)(10) as the same appears in the 1976 Replacement Volume 3D is hereby amended on line 4 by deleting the figure “40” and inserting in lieu thereof the figure “40A”.

Sec. 32. G.S. 162A-69(10) as the same appears in the 1976 Replacement Volume 3D is hereby amended on line 4 by deleting the figure “40” and inserting in lieu thereof the figure “40A”.

Sec. 33. This act shall become effective January 1, 1982.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.

H. B. 644  CHAPTER 920

AN ACT TO ALLOW MAXIMUM WORKERS’ COMPENSATION TO NATIONAL GUARDSMEN.

The General Assembly of North Carolina enacts:

Section 1. The third paragraph of G.S. 97-29 is amended by striking from line 3 thereof “of eighty dollars ($80.00)” and by inserting in lieu thereof “established annually in accordance with the last paragraph of this section”.

Sec. 2. Any funds required to implement this act shall come from the Contingency and Emergency Fund.

Sec. 3. This act is effective upon ratification and applies to cases arising on and after that date.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.
AN ACT TO PROVIDE INCOME TAX CREDITS FOR EXPENDITURES FOR VARIOUS ALTERNATIVE ENERGY SYSTEMS.

The General Assembly of North Carolina enacts:

Section 1. Division I of Article 4 of Chapter 105 is amended by adding the following new sections to read:

"§ 105-130.28. Credit against corporate income tax for construction of a photovoltaic equipment facility.—(a) Any corporation that constructs in North Carolina a facility for the production of photovoltaic equipment shall be allowed a credit against the tax imposed by this division equal to twenty percent (20%) of the installation and equipment costs of construction. This credit shall not be allowed to the extent that any of the costs of the system were provided by federal, State, or local grants. To secure the credit allowed by this section, the taxpayer must own or control the facility at the time of construction. The credit allowed by this section may not exceed the amount of the tax imposed by this division for the taxable year reduced by the sum of all credits allowable under this division, except payments of tax made by or on behalf of the taxpayer.

(b) As used in this section, 'photovoltaic equipment' means those products designed, manufactured, and produced to convert sunlight directly into electricity without a need for additional generating or conversion equipment.

(c) The amount of credit allowed under this section may be carried over for the next succeeding five years.

"§ 105-130.29. Credit against corporate income tax for construction of an olivine brick facility.—(a) Any corporation that constructs in North Carolina a facility for the production of olivine bricks for thermal storage shall be allowed a credit against the tax imposed by this division equal to twenty percent (20%) of the installation and equipment costs of construction. This credit shall not be allowed to the extent that any of the costs of the system were provided by federal, State, or local grants. To secure the credit allowed by this section, the taxpayer must own or control the facility at the time of construction. The credit allowed by this section may not exceed the amount of the tax imposed by this division for the taxable year reduced by the sum of all credits allowable under this division, except payments of tax made by or on behalf of the taxpayer.

(b) The amount of credit allowed under this section may be carried over for the next succeeding five years.

"§ 105-130.30. Credit against corporate income tax for construction of a methane gas facility.—(a) Any corporation that constructs in North Carolina a facility for the production of methane gas from renewable biomass resources shall be allowed a credit against the tax imposed by this division equal to ten percent (10%) of the installation and equipment costs of construction. The credit allowed under this section may not exceed two thousand five hundred dollars ($2,500) for any single installation. This credit shall not be allowed to the extent that any of the costs of the system were provided by federal, State, or local grants. To secure the credit allowed by this section, the taxpayer must own or control the facility at the time of construction. The credit allowed by this section may not exceed the amount of the tax imposed by this division for the taxable year reduced by the sum of all credits allowable under this division, except payments of tax made by or on behalf of the taxpayer.
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(b) As used in this section, ‘renewable biomass resources’ means organic matter produced by terrestrial and aquatic plants and animals such as standing vegetation, aquatic crops, forestry and agricultural residues and animal wastes that can be used for the production of energy.

“§ 105-130.31. Credit against corporate income tax for installation of a wind energy device.—(a) Any corporation that constructs or installs a wind energy device for the production of electricity at a site located in this State shall be allowed a credit against the tax imposed by this division equal to ten percent (10%) of the installation and equipment costs of the wind energy device. The credit allowed under this section may not exceed one thousand dollars ($1,000) for any single installation. This credit shall not be allowed to the extent that any of the costs of the system were provided by federal, State, or local grants. To secure the credit allowed by this section, the taxpayer must own or control the site at the time the wind energy device is installed. The credit allowed by this section may not exceed the amount of the tax imposed by this division for the taxable year reduced by the sum of all credits allowable under this division, except payments of tax made by or on behalf of the taxpayer.

(b) As used in this section, ‘wind energy device’ means equipment (and parts solely related to the functioning of the equipment) that, when installed on a site, transmits or uses wind energy to generate electricity.

“§ 105-130.32. Credit against corporate income tax for installation of solar equipment for the production of industrial heat.—(a) Any corporation that constructs or installs solar equipment for the production of heat in the manufacturing process of a manufacturing business located in this State shall be allowed a credit against the tax imposed by this division equal to twenty percent (20%) of the installation and equipment costs of the solar equipment. The credit allowed under this section may not exceed eight thousand dollars ($8,000) for any single installation. This credit shall not be allowed to the extent that any of the costs of the system were provided by federal, State, or local grants. To secure the credit allowed by this section, the taxpayer must own or control the business at the time the solar equipment is installed. The credit allowed by this section may not exceed the amount of the tax imposed by this division for the taxable year reduced by the sum of all credits allowable under this division, except payments of tax made by or on behalf of the taxpayer.

(b) As used in this section, ‘solar equipment’ means equipment and materials designed to collect, store, transport, or control energy derived directly from the sun.

“§ 105-130.33. Credit against corporate income tax for installation of a hydroelectric generator.—(a) Any corporation that constructs or installs a hydroelectric generator with a capacity of at least three kilowatts (3KW) at an existing dam or free flowing stream located in this State shall be allowed a credit against the tax imposed by this division equal to ten percent (10%) of the installation and equipment costs of the hydroelectric generator. The credit allowed under this section may not exceed five thousand dollars ($5,000) for any single installation. This credit shall not be allowed to the extent that any of the costs of the system were provided by federal, State, or local grants. To secure the credit allowed by this section, the taxpayer must own or control the site at the time the hydroelectric generator is installed. The credit allowed by this section may not exceed the amount of the tax imposed by this division for the
taxable year reduced by the sum of all credits allowable under this division, except payments of tax made by or on behalf of the taxpayer.

(b) The term 'installation costs' includes spillway and other site construction and modifications necessary to accommodate the hydroelectric generator.

(c) As used in this section, 'hydroelectric generator' means a machine that produces electricity by water power or by the friction of water or steam."

Sec. 2. Division II of Article 4 of Chapter 105 is amended by adding the following new sections to read:

"§ 105-151.7. Credit against personal income tax for installation of a hydroelectric generator.—(a) Any person who constructs or installs a hydroelectric generator with a capacity of at least three kilowatts (3KW) at an existing dam or free flowing stream located in this State shall be allowed a credit against the tax imposed by this division equal to ten percent (10%) of the installation and equipment costs of the hydroelectric generator. The credit allowed under this section may not exceed five thousand dollars ($5,000) for any single installation. This credit shall not be allowed to the extent that any of the costs of the system were provided by federal, State, or local grants. To secure the credit allowed by this section, the taxpayer must own or control the site at the time the hydroelectric generator is installed. The credit allowed by this section may not exceed the amount of the tax imposed by this division for the taxable year reduced by the sum of all credits allowable under this division, except payments of tax made by or on behalf of the taxpayer.

(b) In the case of property owned by the entirety, where both spouses are required to file North Carolina income tax returns, each spouse may claim one half of the credit allowed by this section or one spouse may claim the entire credit allowed by this section by agreement with the other spouse, provided both spouses were living together at the end of the taxable year and file their separate returns for the taxable year on the combined form. Where only one spouse is required to file a North Carolina income tax return, such spouse may claim the credit allowed by this section.

(c) The term 'installation costs' includes spillway and other site construction and modifications necessary to accommodate the hydroelectric generator.

(d) As used in this section, 'hydroelectric generator' means a machine that produces electricity by water power or by the friction of water or steam.

"§ 105-151.8. Credit against personal income tax for installation of solar equipment for the production of industrial heat.—(a) Any person who constructs or installs solar equipment for the production of heat in the manufacturing process of a manufacturing business located in this State shall be allowed a credit against the tax imposed by this division equal to twenty percent (20%) of the installation and equipment costs of the solar equipment. The credit allowed under this section may not exceed eight thousand dollars ($8,000) for any single installation. This credit shall not be allowed to the extent that any of the costs of the system were provided by federal, State, or local grants. To secure the credit allowed by this section, the taxpayer must own or control the business at the time the solar equipment is installed. The credit allowed by this section may not exceed the amount of the tax imposed by this division for the taxable year reduced by the sum of all credits allowable under this division, except payment of tax made by or on behalf of the taxpayer. In no case shall a tax credit be allowed both under the provisions of this section and G.S. 105-151.2.
(b) In the case of property owned by the entirety, where both spouses are required to file North Carolina income tax returns, each spouse may claim one half of the credit allowed by this section or one spouse may claim the entire credit allowed by this section by agreement with the other spouse, provided both spouses were living together at the end of the taxable year and file their separate returns for the taxable year on the combined form. Where only one spouse is required to file a North Carolina income tax return, such spouse may claim the credit allowed by this section.

(c) As used in this section, 'solar equipment' means equipment and materials designed to collect, store, transport, or control energy derived directly from the sun.

"§ 105-151.9. Credit against personal income tax for installation of a wind energy device.—(a) Any person who constructs or installs a wind energy device for the production of electricity at a site located in this State shall be allowed a credit against the tax imposed by this division equal to ten percent (10%) of the installation and equipment costs of the wind energy device. The credit allowed under this section may not exceed one thousand dollars ($1,000) for any single installation. This credit shall not be allowed to the extent that any of the costs of the system were provided by federal, State, or local grants. To secure the credit allowed by this section, the taxpayer must own or control the site at the time the wind energy device is installed. The credit allowed by this section may not exceed the amount of the tax imposed by this division for the taxable year reduced by the sum of all credits allowable under this division, except payments of tax made by or on behalf of the taxpayer.

(b) In the case of property owned by the entirety, where both spouses are required to file North Carolina income tax returns, each spouse may claim one half of the credit allowed by this section or one spouse may claim the entire credit allowed by this section by agreement with the other spouse, provided both spouses were living together at the end of the taxable year and file their separate returns for the taxable year on the combined form. Where only one spouse is required to file a North Carolina income tax return, such spouse may claim the credit allowed by this section.

(c) As used in the section, 'wind energy device' means equipment (and parts solely related to the functioning of the equipment) that, when installed on a site, transmits or uses wind energy to generate electricity.

"§ 105-151.10. Credit against personal income tax for construction of a methane gas facility.—(a) Any person who constructs in North Carolina a facility for the production of methane gas from renewable biomass resources shall be allowed a credit against the tax imposed by this division equal to ten percent (10%) of the installation and equipment costs of construction. The credit allowed under this section may not exceed two thousand five hundred dollars ($2,500) for any single installation. This credit shall not be allowed to the extent that any of the costs of the system were provided by federal, State, or local grants. To secure the credit allowed by this section, the taxpayer must own or control the facility at the time of construction. The credit allowed by this section may not exceed the amount of the tax imposed by this division for the taxable year reduced by the sum of all credits allowable under this division, except payments of tax made by or on behalf of the taxpayer.

(b) In the case of property owned by the entirety, where both spouses are required to file North Carolina income tax returns, each spouse may claim one
half of the credit allowed by this section or one spouse may claim the entire credit allowed by this section by agreement with the other spouse, provided both spouses were living together at the end of the taxable year and file their separate returns for the taxable year on the combined form. Where only one spouse is required to file a North Carolina income tax return, such spouse may claim the credit allowed by this section.

(c) As used in this section, ‘renewable biomass resources’ means organic matter produced by terrestrial and aquatic plants and animals such as standing vegetation, aquatic crops, forestry and agricultural residues and animal wastes that can be used for the production of energy.”

Sec. 3. G.S. 105-130.23(a) is amended:

(a) by deleting from line 1 thereof the words “constructs or installs” and by substituting therefor the words “causes to be constructed or installed”;

(b) by inserting on line 8 thereof the words “per system or per year” between the number in parentheses, “($1000)”, and the word “for”; and

(c) by deleting the last two words, “that in”, at the end of line 10 thereof, all of lines 11 through 16, and the four words, “the credit is claimed”, at the beginning of line 17, and substituting therefor the following:

“that to obtain the credit the taxpayer must own or control the use of the building at the time of the installation, except that in the case of a building constructed or modified for sale in which a solar system is constructed or installed, the credit shall be allowed to the owner who first occupies the building for use after the construction or installation of the system or the owner-lessee who first leases the building for use after the construction or installation of the system; provided, further, that the credit shall not be allowed to the extent that any of the cost of the system was provided by federal, State, or local grants;”.

Sec. 4. G.S. 105-130.23(b) is amended by changing the period at the end of the subsection to a comma and adding the following:

“or passive solar systems that meet the eligibility criteria approved and published by the Secretary of Revenue.”

Sec. 5. G.S. 105-151.2(a) is amended:

(a) by deleting the word “constructs” at the end of line 1 thereof and the two words “or installs” at the beginning of line 2, and by substituting therefor the words “causes to be constructed or installed”;

(b) by inserting on line 7 thereof the words “per system or per year” between the number in parentheses “($1,000)” and the word “on”; and

(c) by deleting the words “that in order to secure the credit allowed by this section the” from line 10 thereof, all of lines 11 through 15, and the words “during the income year for which the credit is claimed” from line 16, and substituting therefor the following: “that to obtain the credit the taxpayer must own or control the use of the building at the time of the installation, except that in the case of a building constructed or modified for sale in which a solar system is constructed or installed, the credit shall be allowed to the owner who first occupies the building for use after the construction or installation of the system or the owner-lessee who first leases the building for use after the construction or installation of the system; provided further, that the credit shall not be allowed to the extent that any of the cost of the system was provided by federal, State, or local grants;”.

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Sec. 6. G.S. 105-151.2(c) is amended by changing the period at the end of the subsection to a comma and adding the following: "or passive solar systems that meet the eligibility criteria approved and published by the Secretary of Revenue."

Sec. 7. This act is effective for taxable years beginning on and after January 1, 1981.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.

H. B. 823  CHAPTER 922

AN ACT TO ESTABLISH A DRUG EDUCATION PROGRAM AND TO STRENGTHEN THE LAWS AGAINST PERSONS WHO POSSESS CONTROLLED SUBSTANCES WHILE ALLOWING CONDITIONAL DISCHARGE AND EXPUNCTION OF RECORDS FOR FIRST OFFENSE.

The General Assembly of North Carolina enacts:

Section 1. Subsection (a) of G.S. 90-96 is rewritten as follows:

"(a) Whenever any person who has not previously been convicted of any offense under this Article or under any statute of the United States or any state relating to those substances included in Article 5 or 5A of Chapter 90 or to that paraphernalia included in Article 5B of Chapter 90 pleads guilty to or is found guilty of a misdemeanor under this Article by possessing a controlled substance included within Schedules II through VI of this Article, or by possessing drug paraphernalia as prohibited by G.S. 90-113.16, the court may, without entering a judgment of guilt and with the consent of such person, defer further proceedings and place him on probation upon such reasonable terms and conditions as it may require. Notwithstanding the provisions of G.S. 15A-1342(c) or any other statute or law, probation may be imposed under this section for an offense under this Article for which the prescribed punishment includes only a fine. To fulfill the terms and conditions of probation the court may allow the defendant to participate in a drug education program approved for this purpose by the Department of Human Resources. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge such person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without court adjudication of guilt and shall not be deemed a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime including the additional penalties imposed for second or subsequent convictions under this Article. Discharge and dismissal under this section or G.S. 90-113.14 may occur only once with respect to any person. Disposition of a case to determine discharge and dismissal under this section at the district court division of the General Court of Justice shall be final for the purpose of appeal. Prior to taking any action to discharge and dismiss under this section the court shall make a finding that the defendant has no record of previous convictions under the 'North Carolina Controlled Substances Act', Article 5, Chapter 90, the 'North Carolina Toxic Vapors Act', Article 5A, Chapter 90, or the 'Drug Paraphernalia Act', Article 5B, Chapter 90."

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Sec. 2. G.S. 90-96 is further amended by redesignating the present subsections (b), (c) and (d) as (c), (d) and (e) and inserting a new subsection (b) to read:

"(b) Upon the first conviction only of any offense included in G.S. 90-95(a)(3) or G.S. 90-113.16 and subject to the provisions of this subsection (b), the court may place defendant on probation under this section for an offense under this Article including an offense for which the prescribed punishment includes only a fine. The probation, if imposed, shall be for not less than one year and shall contain a minimum condition that the defendant who was found guilty or pleads guilty enroll in and successfully complete, within 150 days of the date of the imposition of said probation, the program of instruction at the Drug Education School approved by the Department of Human Resources pursuant to G.S. 90-96A. The court may impose probation that does not contain a condition that defendant successfully complete the program of instruction at a Drug Education School if:

(1) there is no Drug Education School within a reasonable distance of the defendant’s residence; or

(2) there are specific, extenuating circumstances which make it likely that defendant will not benefit from the program of instruction.

The court shall enter such specific findings in the record; provided that in the case of subdivision (2) above, such findings shall include the specific, extenuating circumstances which make it likely that the defendant will not benefit from the program of instruction.

For the purposes of determining whether the conviction is a first conviction or whether a person has already had discharge and dismissal, no prior offense occurring more than seven years before the date of the current offense shall be considered. In addition, convictions for violations of a provision of G.S. 90-95(a)(1) or 90-95(a)(2) or 90-95(a)(3), or 90-113.10, or 90-113.11, or 90-113.12, or 90-113.16 shall be considered previous convictions.

Failure to complete successfully an approved program of instruction at a Drug Education School shall constitute grounds to revoke probation and deny application for expunction of all recordation of defendant’s arrest, indictment, or information, trial, finding of guilty, and dismissal and discharge pursuant to this section. For purposes of this subsection, the phrase ‘failure to complete successfully the prescribed program of instruction at a Drug Education School’ includes failure to attend scheduled classes without a valid excuse, failure to complete the course within 150 days of imposition of probation, willful failure to pay the required fee for the course, or any other manner in which the person fails to complete the course successfully. The instructor of the course to which a person is assigned shall report any failure of a person to complete successfully the program of instruction to the court which imposed probation. Upon receipt of the instructor’s report that the person failed to complete the program successfully, the court shall revoke probation and/or deny application for expunction of all recordation of defendant’s arrest, indictment, or information, trial, finding of guilty, and dismissal and discharge pursuant to this section. A person may obtain a hearing before the court of original jurisdiction prior to revocation of probation or denial of application for expunction.

This subsection is supplemental and in addition to existing law and shall not be construed so as to repeal any existing provision contained in the General Statutes of North Carolina."
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Sec. 3. G.S. 90-96(d) is amended by deleting Roman numeral "III" in the first sentence and substituting Roman numeral "II".

Sec. 4. G.S. 90-96 is amended by adding at the end thereof a new subsection (e) to read as follows:

"(e) Whenever any person who has not previously been convicted of an offense under this Article or under any statute of the United States or any state relating to controlled substances included in any schedule of this Article or to that paraphernalia included in Article 5B of Chapter 90 pleads guilty to or has been found guilty of a misdemeanor under this Article by possessing a controlled substance included within Schedules II through VI of this Article, or by possessing drug paraphernalia as prohibited by G.S. 90-113.16, the court may, upon application of the person not sooner than 12 months after conviction, order cancellation of the judgment of conviction and expunction of the records of his arrest, indictment, or information, trial and conviction. A conviction in which the judgment of conviction has been cancelled and the records expunged pursuant to this section shall not be thereafter deemed a conviction for purposes of this section or for purposes of disqualifications or liabilities imposed by law upon conviction of a crime including the additional penalties imposed for second or subsequent convictions of this Article. Cancellation and expunction under this section may occur only once with respect to any person. Disposition of a case under this section at the district court division of the General Court of Justice shall be final for the purpose of appeal.

The granting of an application filed under this section shall cause the issue of an order to expunge from all official records (other than the confidential file to be retained by the Administrative Office of the Courts under subsection (e)) all recordation relating to the petitioner's arrest, indictment, or information, trial, finding of guilty, judgment of conviction, cancellation of the judgment, and expunction of records pursuant to this section.

The judge to whom the petition is presented is authorized to call upon a probation officer for additional investigation or verification of the petitioner's conduct since conviction. If the court determines that the petitioner was convicted of a misdemeanor under this Article for possessing a controlled substance included within Schedules II through VI of this Article, or for possessing drug paraphernalia as prohibited in G.S. 90-113.16, that he was not over 21 years of age at the time of the offense, that he has been of good behavior since his conviction, that he has successfully completed a drug education program approved for this purpose by the Department of Human Resources, and that he has not been convicted of a felony or misdemeanor other than a traffic violation under the laws of this State at any time prior to or since the conviction for the misdemeanor in question, it shall enter an order of expunction of the petitioner's court record. The effect of such order shall be to restore the petitioner in the contemplation of the law to the status he occupied before arrest or indictment or information or conviction. No person as to whom such order was entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his failures to recite or acknowledge such arrest, or indictment or information, or conviction, or trial in response to any inquiry made of him for any purpose. The judge may waive the condition that the petitioner attend the drug education school if the judge makes a specific finding that there was no drug education school within a reasonable distance of the defendant's residence or that there
were specific extenuating circumstances which made it likely that the petitioner would not benefit from the program of instruction.

The court shall also order that all law enforcement agencies bearing records of the conviction and records relating thereto to expunge their records of the conviction. The clerk shall forward a certified copy of the order to the sheriff, chief of police, or other arresting agency, as appropriate, and the arresting agency shall forward the order to the State Bureau of Investigation with a form supplied by the State Bureau of Investigation. The State Bureau of Investigation shall forward the court order in like manner to the Federal Bureau of Investigation.

The clerk of superior court in each county in North Carolina shall, as soon as practicable after each term of court in his county, file with the Administrative Office of the Courts the names of those persons whose judgments of convictions have been cancelled and expunged under the provisions of this Article, and the Administrative Office of the Courts shall maintain a confidential file containing the names of persons whose judgments of convictions have been cancelled and expunged. The information contained in the file shall be disclosed only to judges of the General Court of Justice of North Carolina for the purpose of ascertaining whether any person charged with an offense under this Article has been previously granted cancellation and expungement of a judgment of conviction pursuant to the terms of this Article.”

Sec. 5. Subsection (a) of 90-113.14 is rewritten as follows:

“(a) Whenever any person who has not previously been convicted of any offense under this Article or under any statute of the United States or any state relating to those substances included in Article 5 or 5A or 5B of Chapter 90 pleads guilty to or is found guilty of inhaling or possessing any substance having the property of releasing toxic vapors or fumes in violation of Article 5A of Chapter 90, the court may, without entering a judgment of guilt and with the consent of such person, defer further proceedings and place him on probation upon such reasonable terms and conditions as it may require. Notwithstanding the provisions of G.S. 15A-1342(c) or any other statute or law, probation may be imposed under this section for an offense under this Article for which the prescribed punishment includes only a fine. To fulfill the terms and conditions of probation the court may allow the defendant to participate in a drug education program approved for this purpose by the Department of Human Resources. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge such person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without court adjudication of guilt and shall not be deemed a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime including the additional penalties imposed for second or subsequent convictions. Discharge and dismissal under this section or G.S. 90-96 may occur only once with respect to any person. Disposition of a case to determine discharge and dismissal under this section at the district court division of the General Court of Justice shall be final for the purpose of appeal. Prior to taking any action to discharge or dismiss under this section the court shall make a finding that the defendant has no record of previous convictions under the ‘North Carolina Toxic Vapors Act’, Article 5A,
Chapter 90, the 'North Carolina Controlled Substances Act', Article 5, Chapter 90, or the 'Drug Paraphernalia Act', Article 5B, Chapter 90.'

Sec. 6. G.S. 90-113.14 is further amended by redesignating the present subsections (b) and (c) as (c) and (d) and inserting a new subsection (b) to read:

"(b) Upon the first conviction only of any offense included in G.S. 90-113.10 or G.S. 90-113.11 and subject to the provisions of this subsection (b), the court may place defendant on probation under this section for an offense under this Article including an offense for which the prescribed punishment includes only a fine. The probation, if imposed, shall be for not less than one year and shall contain a minimum condition that the defendant who was found guilty or pleads guilty enroll in and successfully complete, within 150 days of the date of the imposition of said probation, the program of instruction at the Drug Education School approved by the Department of Human Resources pursuant to G.S. 90-96A. The court may impose probation that does not contain a condition that defendant successfully complete the program of instruction at a Drug Education School if:

(1) there is no Drug Education School within a reasonable distance of the defendant's residence; or

(2) there are specific, extenuating circumstances which make it likely that defendant will not benefit from the program of instruction.

The court shall enter such specific findings in the record; provided that in the case of subsection (2) above, such findings shall include the specific, extenuating circumstances which make it likely that the defendant will not benefit from the program of instruction.

For the purpose of determining whether the conviction is a first conviction or whether a person has already had discharge and dismissal, no prior offense occurring more than seven years before the date of the current offense shall be considered. In addition, convictions for violations of a provision of G.S. 90-95(a)(1) or 90-95(a)(2) or 90-95(a)(3), or 90-113.10, or 90-113.11, or 90-113.12, or 90-113.16 shall be considered previous convictions.

Failure to complete successfully an approved program of instruction at a Drug Education School shall constitute grounds to revoke probation and deny application for expunction of all recordation of defendant's arrest, indictment, or information, trial, finding of guilty, and dismissal and discharge pursuant to this section. For purposes of this subsection, the phrase 'failure to complete successfully the prescribed program of instruction at a Drug Education School' includes failure to attend scheduled classes without a valid excuse, failure to complete the course within 150 days of imposition of probation, willful failure to pay the required fee for the course, or any other manner in which the person fails to complete the course successfully. The instructor of the course to which a person is assigned shall report any failure of a person to complete successfully the program of instruction to the court which imposed probation. Upon receipt of the instructor's report that the person failed to complete the program successfully, the court shall revoke probation and/or deny application for expunction of all recordation of defendant’s arrest, indictment, or information, trial, finding of guilty, and dismissal and discharge pursuant to this section. A person may obtain a hearing before the court of original jurisdiction prior to revocation of probation or denial of application for expunction.
This subsection is supplemental and in addition to existing law and shall not be construed so as to repeal any existing provision contained in the General Statutes of North Carolina."

Sec. 7. G.S. 90-13.14 is amended by adding two new subsections (d) and (e) to read:

"(d) Whenever any person is charged with a misdemeanor under this Article by possessing a controlled substance included within Schedules II through VI of this Article, or by possessing drug paraphernalia as prohibited by G.S. 90-113.16 upon dismissal by the State of the charges against him or upon entry of a nolle prosequi or upon a finding of not guilty or other adjudication of innocence, such person may apply to the court for an order to expunge from all official records all recordation relating to his arrest, indictment, or information, and trial. If the court determines, after hearing that such person was not over 21 years of age at the time any of the proceedings against him occurred, it shall enter such order. No person as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his failures to recite or acknowledge such arrest, or indictment, or information, or trial in response to any inquiry made of him for any purpose.

(e) Whenever any person who has not previously been convicted of an offense under this Article or under any statute of the United States or any state relating to controlled substances included in any schedule of this Article or to that paraphernalia included in Article 5B of Chapter 90 pleads guilty to or has been found guilty of a misdemeanor under this Article by possessing a controlled substance included within Schedules II through VI of this Article, the court may, upon application of the person not sooner than 12 months after conviction, order cancellation of the judgment of conviction and expunction of the records of his arrest, indictment, or information, trial and conviction. A conviction in which the judgment of conviction has been cancelled and the records expunged pursuant to this section shall not be thereafter deemed a conviction for purposes of this section or for purposes of disqualifications or liabilities imposed by law upon conviction of a crime including the additional penalties imposed for second or subsequent convictions of this Article. Cancellation and expunction under this section may occur only once with respect to any person. Disposition of a case under this section at the district court division of the General Court of Justice shall be final for the purpose of appeal.

The granting of an application filed under this section shall cause the issue of an order to expunge from all official records (other than the confidential file to be retained by the Administrative Office of the Courts under subsection (c)) all recordation relating to his arrest, indictment, or information, trial, finding of guilty, judgment of conviction, cancellation of the judgment, and expunction of records pursuant to this section.

The judge to whom the petition is presented is authorized to call upon a probation officer for additional investigation or verification of the petitioner’s conduct since conviction. If the court determines that the petitioner was convicted of a misdemeanor under this Article for possessing a controlled substance included within Schedules II through VI of this Article, or for possessing drug paraphernalia as prohibited by G.S. 90-113.16, that he was not over 21 years of age at the time of the offense, that he has been of good behavior.
since his conviction, that he has successfully completed a drug education program approved for this purpose by the Department of Human Resources, and that he has not been convicted of a felony or misdemeanor other than a traffic violation under the laws of this State at any time prior to or since the conviction for the misdemeanor in question, it shall enter an order of expunction of the petitioner's court record. The effect of such order shall be to restore the petitioner in the contemplation of the law to the status he occupied before such arrest or indictment or information or conviction. No person as to whom such order was entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his failures to recite or acknowledge such arrest, or indictment or information, or conviction, or trial in response to any inquiry made of him for any purpose. The judge may waive the condition that the petitioner attend the drug education school if the judge makes a specific finding that there was no drug education school within a reasonable distance of the defendant's residence or that there were specific extenuating circumstances which made it likely that the petitioner would not benefit from the program of instruction.

The court shall also order that all law enforcement agencies bearing records of the conviction and records relating thereto to expunge their records of the conviction. The clerk shall forward a certified copy of the order to the sheriff, chief of police, or other arresting agency, as appropriate, and the arresting agency shall forward the order to the State Bureau of Investigation with a form supplied by the State Bureau of Investigation. The State Bureau of Investigation shall forward the court order in like manner to the Federal Bureau of Investigation.

The clerk of superior court in each county in North Carolina shall, as soon as practicable after each term of court in his county, file with the Administrative Office of the Courts the names of those persons whose judgments of convictions have been cancelled and expunged under the provisions of this Article, and the Administrative Office of the Courts shall maintain a confidential file containing the names of persons whose judgments of convictions have been cancelled and expunged. The information contained in the file shall be disclosed only to judges of the General Court of Justice of North Carolina for the purpose of ascertaining whether any person charged with an offense under this Article has been previously granted cancellation and expungement of a judgment of conviction pursuant to the terms of this Article."

Sec. 8. G.S. Chapter 90 is amended by adding a new section numbered G.S. 90-96A between G.S. 90-96 and G.S. 90-96.1 to read as follows:

"§ 90-96A. Drug education schools; responsibilities of the Department of Human Resources; fees.—(a) The Commission for Mental Health, Mental Retardation, and Substance Abuse Services shall establish standards and guidelines for the curriculum and operation of local drug education programs. The Department of Human Resources shall oversee the development of a statewide system of schools and shall insure that schools are available in all localities of the State as soon as is practicable.

(1) A fee of one hundred dollars ($100.00) shall be paid by all persons enrolling in an accredited Drug Education School established pursuant to this section. That fee must be paid to an official designated for that purpose and at a time and place specified by the Area Mental Health, Mental Retardation, and Substance Abuse Authority providing the

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course of instruction in which the person is enrolled. If the clerk of
court in the county in which the person is convicted agrees to collect the
fees, the clerk shall collect all fees for persons convicted in that county.
The clerk shall pay the fees collected to the area mental health, mental
retardation and substance abuse authority for the catchment area where
the clerk is located regardless of the location where the defendant
attends the Drug Education School and that authority shall distribute
the funds in accordance with the rules and regulations of the
Department. The fee must be paid in full within two weeks of the date
the person is convicted and before he attends any classes, unless the
court, upon a showing of reasonable hardship, allows the person
additional time to pay the fee or allows him to begin the course of
instruction without paying the fee. If the person enrolling in the school
demonstrates to the satisfaction of the court that ordered him to enroll
in the school that he is unable to pay and his inability to pay is not
willful, the court may excuse him from paying the fee. Parents or
guardians of persons attending Drug Education School shall be allowed
to audit the Drug Education School along with their children or wards
at no extra expense.

(2) The Department of Human Resources shall have the authority to
approve programs to be implemented by area mental health, mental
retardation, and substance abuse authorities. Area mental health,
mental retardation, and substance abuse authorities may subcontract
for the delivery of drug education program services. The Department
shall have the authority to approve budgets and contracts with public
and private governmental and nongovernmental bodies for the
operation of such schools.

(3) Fees collected under this section and retained by the Area Mental
Health, Mental Retardation and Substance Abuse Authority shall be
placed in a nonreverting fund. That fund must be used, as necessary, for
the operation, evaluation and administration of the Drug Education
Schools; excess funds may only be used to fund other drug or alcohol
programs. The Area Mental Health, Mental Retardation and Substance
Abuse Authority shall remit five percent (5%) of each fee collected to
the Department of Human Resources on a monthly basis. Fees received
by the Department as required by this section may only be used in
supporting, evaluating, and administering Drug Education Schools, and
any excess funds will revert to the General Fund.

(4) All fees collected by any area mental health, mental retardation and
substance abuse authority under the authority of this section may not
be used in any manner to match other State funds or be included in any
computation for State formula-funded allocations.

(b) Willful failure to pay the fee is one ground for a finding that a person
placed on probation or who may make application for expunction of all
recordation of his arrest or conviction has not successfully completed the
course. If the court determines the person is unable to pay, he shall not be
deemed guilty of a willful failure to pay the fee.”

Sec. 9. This program and the provisions of this act shall be implemented
to the extent appropriations are provided by the General Assembly but nothing
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herein contained shall be construed to obligate the General Assembly to appropriate additional funds.

Sec. 10. The Department of Human Resources shall prepare an evaluation of the effectiveness of the course of instruction at Drug Education Schools, and the result of that evaluation shall be made available to the 1985 Session of the General Assembly.

Sec. 11. This act shall become effective October 1, 1981, except that Sections 3, 4 and 7 shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.

H. B. 1098  CHAPTER 923

AN ACT TO CREATE A DOMICILIARY HOME RESIDENTS' BILL OF RIGHTS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 131C of the General Statutes, as enacted by Section 2 of Chapter 275, Session Laws of 1981, is amended by adding the following new Article:

"ARTICLE 4.

"Domiciliary Home Residents' Bill of Rights.

"§ 131C-50. Legislative intent.—It is the intent of the General Assembly to promote the interests and well-being of the residents in domiciliary homes to include Family Care Homes, Homes for the Aged and Disabled, and Group Homes for Developmentally Disabled Adults licensed pursuant to G.S. 108-77. It is the intent of the General Assembly that every resident's civil and religious liberties, including the right to independent personal decisions and knowledge of available choices, shall not be infringed and that the facility shall encourage and assist the resident in the fullest possible exercise of these rights.

"§ 131C-51. Definitions.—As used in this Article, the following terms have the meanings specified:

(1) 'Abuse' has the same meaning as in G.S. 108A-152(a).
(2) 'Domiciliary Home' means any facility, by whatever name it is called, which provides residential care for aged or disabled persons whose principal need is a home with the sheltered or personal care their age or disability requires. Medical care at a domiciliary home is only occasional or incidental, such as may be required in the home of any individual or family, but the administration of medication is supervised. Domiciliary homes are to be distinguished from nursing homes subject to licensure under G.S. 130-9(e). The three types of domiciliary homes are homes for the aged and disabled, family care homes and group homes for developmentally disabled adults.
(3) 'Exploitation' means exploitation as defined in G.S. 108A-152(j).
(4) 'Facility' means a domiciliary home licensed pursuant to G.S. 108-77.
(5) 'Family Care Home' means a domiciliary home having two to five residents. The structure of a family care home may be no more than two stories high and none of the aged or physically disabled persons being served there may be housed in the upper story without provision for two direct, exterior ground-level accesses to the upper story.
(6) 'Group Home for Developmentally Disabled Adults' means a domiciliary home which has two to nine developmentally disabled adult residents.
(7) 'Home for the Aged and Disabled' means a domiciliary home which has six or more residents.
(8) 'Neglect' means the failure to provide the services necessary to maintain the physical or mental health of a resident.
(9) 'Resident' means an aged or disabled person who has been admitted to a facility.

§131C-52. Declaration of residents' rights.—Each facility shall treat its residents in accordance with the provisions of this Article. Every resident shall have the following rights:

1. To be treated with respect, consideration, dignity, and full recognition of his or her individuality and right to privacy.
2. To receive care and services which are adequate, appropriate, and in compliance with relevant federal and State laws and regulations.
3. To receive upon admission and during his or her stay a written statement of the services provided by the facility and the charges for these services.
4. To be free of mental and physical abuse, neglect, and exploitation.
5. Except in emergencies, to be free from chemical and physical restraint unless authorized for a specified period of time by a physician according to clear and indicated medical need.
6. To have his or her personal and medical records kept confidential and not disclosed if he or she objects in writing unless required by State or federal law or regulation.
7. To receive a reasonable response to his or her requests from the facility administrator and staff.
8. To associate and communicate privately and without restriction with people and groups of his or her own choice on his or her own or their initiative at any reasonable hour.
9. To have access at any reasonable hour to a telephone where he or she may speak privately.
10. To send and receive mail promptly and unopened, unless the resident requests that someone open and read mail, and to have access at his or her expense to writing instruments, stationery, and postage.
11. To be encouraged to exercise his or her rights as a resident and citizen, and to be permitted to make complaints and suggestions without fear of coercion or retaliation.
12. To have and use his or her own possessions where reasonable and have an accessible, lockable space provided for security of personal valuables. This space shall be accessible only to the resident, the administrator, or supervisor-in-charge.
13. To manage his or her personal needs funds unless such authority has been delegated to another. If authority to manage personal needs funds has been delegated to the facility, the resident has the right to examine the account at any time.
14. To be notified when the facility is issued a provisional license by the North Carolina Department of Human Resources and the basis on which the provisional license was issued. The resident's responsible family member or guardian shall also be notified.
15. To have freedom to participate by choice in accessible community activities and in social, political, medical, and religious resources and to have freedom to refuse such participation.
(16) To receive upon admission to the facility a copy of this section.

"§ 131C-53. Incompetence.—If the resident is adjudicated incompetent or designates another in writing the power to manage his financial affairs, then in such event, his attorney-in-fact, guardian of the person, general guardian, or such other person, no matter how designated, may sign any documents required by the provisions of this Article, may otherwise do or perform any other act, and may receive or furnish any information required by this Article.

"§ 131C-54. No waiver of rights.—No facility may require a resident to waive the rights specified in G.S. 131C-52.

"§ 131C-55. Notice to resident.—(a) A copy of the declaration of the residents' rights shall be posted conspicuously in a public place in all facilities. A copy of the declaration of residents' rights shall be furnished to the resident upon admittance to the facility, to all residents currently residing in the facility, to a representative payee of the resident, or to any person designated in G.S. 131C-53, and if requested to the residents' responsible family member or guardian. Receipts for the declaration of rights signed by these persons shall be retained in the facility's files. The declaration of rights shall be included as part of the facility's admission policies and procedures.

(b) The address and telephone number of the section in the Department of Human Resources responsible for the enforcement of the provisions of this Article shall be posted and distributed with copies of G.S. 131C-52. The address and telephone number of the county Social Services Department, and the appropriate person or office of the Department of Human Resources shall also be posted and distributed.

"§ 131C-56. Implementation.—Responsibility for implementing the provisions of this Article shall rest with the administrator of the facility. Each facility shall provide appropriate training to staff to implement the declaration of residents' rights included in G.S. 131C-52.

"§ 131C-57. Enforcement and investigation.—(a) The Department of Human Resources shall be responsible for the enforcement of the provisions of this Article. Specifically, the Department of Social Services in the county in which the facility is located, along with the Department of Human Resources, shall be responsible for enforcing the provisions of the declaration of the residents' rights. The director of the county Department of Social Services shall monitor the implementation of the declaration of the residents' rights and shall also investigate any complaints or grievances pertaining to violations of the declaration of rights.

(b) If upon investigation, it is found that any of the provisions of the declaration of rights have been violated, the director of the county Department of Social Services must inform the administrator of the specific violations, what must be done to correct them, and set a date by which the violations must be corrected. This information must be confirmed in writing to the administrator by the county director who shall specify the identified violation(s), what must be done to correct the violation(s) and dates by which they must be corrected. Such written communication must be made immediately following the investigation, and a copy of the letter shall be sent to the Department of Human Resources.

(c) Upon receiving requests for assistance in resolving complaints from the county Department of Social Services, the Department of Human Resources shall ensure compliance with the provisions of this Article.
(d) The county director of social services shall annually make a report to the Department of Human Resources about the number of substantiated violations of G.S. 131C-52, the nature of the violations, and the number of violations referred to the Department of Human Resources for resolution.

“§ 131C-58. Confidentiality.—The Department of Human Resources is authorized to inspect residents’ records maintained at the facility when necessary to investigate any alleged violation of the declaration of the residents’ rights. The Department of Human Resources shall maintain the confidentiality of all persons who register complaints with the Department of Human Resources and of all records inspected by the Department of Human Resources.

“§ 131C-59. Civil action.—Every resident shall have the right to institute a civil action for injunctive relief to enforce the provisions of this Article. The Department of Human Resources, a general guardian, or any person appointed ad litem pursuant to law, may institute an action pursuant to this section on behalf of the resident or residents. Any agency or person above named may enforce the rights of the resident specified in G.S. 131C-52 which the resident himself is unable to enforce.

“§ 131C-60. Revocation of license.—The Department of Human Resources shall have the authority to revoke a license issued pursuant to G.S. 108-77 in any case where it finds that there has been a substantial failure to comply with the provisions of this Article.

Such revocation shall be effected by mailing to the licensee by registered or certified mail, or by personal service of, a notice setting forth the particular reasons for such action. Such revocation shall become effective 20 days after the mailing or service of the notice, unless the applicant or licensee, within such 20-day period, shall give written notice to the Department of Human Resources requesting a hearing, in which case the notice shall be deemed to be suspended. If a hearing has been requested, the licensee shall be given a prompt and fair hearing pursuant to the Administrative Procedure Act. At any time at or prior to the hearing, the Department of Human Resources may rescind the notice of revocation upon being satisfied that the reasons for the revocation have been or will be removed.

“§ 131C-61. Penalties; remedies.—(a) The Department of Human Resources shall impose an administrative penalty in accordance with provisions of this Article on any facility:

(1) Which fails to comply with either the entire section of residents’ rights listed in G.S. 131C-52 or with any of these rights, the failure to comply with which endangers the health, safety or welfare of a resident, or

(2) Which refuses to allow an authorized representative of the Department of Human Resources to inspect the premises and records of the facility.

(b) Each day of a continued violation shall constitute a separate violation. The penalty for each violation shall be ten dollars ($10.00) per day per resident affected by the violation.

(c) Any facility wishing to contest a penalty shall be entitled to an administrative hearing as provided in the Administrative Procedure Act.

(d) The Secretary of Human Resources may bring a civil action in the Superior Court of Wake County to recover the amount of the administrative penalty whenever a facility:

(1) Which has not requested an administrative hearing fails to pay the penalty within 60 days after being notified of such penalty, or

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(2) Which has requested an administrative hearing fails to pay the penalty within 60 days after service of a written copy of the decision as provided in G.S. 150A-36.

"§ 131C-62. Domiciliary Home Community Advisory Committees.—(a) Statement of Purpose. It is the intent of the General Assembly that community advisory committees work to maintain the spirit of the Domiciliary Home Residents’ Bill of Rights within the licensed domiciliary homes in this State. It is the further intent of the General Assembly that the committees promote community involvement and cooperation with domiciliary homes to ensure quality care for the elderly and disabled adults.

(b) Establishment and Appointment of Committees. Counties are encouraged to establish a Domiciliary Home Community Advisory Committee in each county which has at least one licensed domiciliary home. The committee shall serve all the homes in the county, and shall work with each home for the best interests of the persons residing in each home. Each committee shall be appointed by the Board of County Commissioners. The size of the committee, the makeup of its members, and the length of their terms will be left to the discretion of the County Commissioners. It is desirable for County Commissioners to have input from all interested parties, including the local domiciliary home operators regarding the appointment of the committees. Each county shall have the necessary flexibility in appointing committee members. Existing advocacy committees such as the Nursing Home Community Advisory Committees may be utilized for this purpose.

(c) Minimum Qualifications for Appointment. Each member must be a resident of the county which the committee serves. No person or immediate family member of a person with a financial interest in a home served by a committee, or employee or governing board member of a home served by a committee, or immediate family member of a resident in a home served by a committee may be a member of a committee. Any county commissioner who is appointed to the committee shall be deemed to be serving on the committee in an ex officio capacity. Members of the committee shall serve without compensation, but may be reimbursed for actual expenses incurred by them in the performance of their duties. The names of the committee members and the date of expiration of their terms shall be filed with the county Department of Social Services, and the Department of Human Resources.

"§ 131C-63. Functions of Domiciliary Home Community Advisory Committees.—(a) The committee shall serve as the nucleus for increased community involvement with domiciliary homes and their residents.

(b) The committee shall promote community education and awareness of the needs of aging and disabled persons who reside in domiciliary homes, and shall work towards keeping the public informed about aspects of long-term care and the operation of domiciliary homes in North Carolina.

(c) The committee shall develop and recruit volunteer resources to enhance the quality of life for domiciliary home residents.

(d) The committee or individual members of the committee shall have the right between 10:00 a.m. and 8:00 p.m. to enter the facility the committee serves in order to carry out the members’ responsibilities. The committee shall have access to residents of the home, as well as access to the facility and its staff. Before entering any domiciliary home, the committee or members of the
committee shall identify themselves to the person present at the facility who is in charge of the facility at that time.

(e) The committee shall establish linkages with the domiciliary home administrators and the county Department of Social Services for the purpose of maintaining the spirit of the Domiciliary Home Residents’ Bill of Rights. This would include identifying any alleged violations of the Bill of Rights, discussing them with the Domiciliary Home Administrator if possible, and reporting such situations to the county Department of Social Services, which has responsibility for resolution.

(f) The committee shall prepare an annual report to the Board of County Commissioners with a copy to the Department of Human Resources containing an appraisal of the problems of domiciliary care facilities as well as issues affecting long-term care in general.

"§ 131C-64. Cooperation.—In order for a domiciliary home as defined by G.S. 131C-51(2) to be licensed under that subsection, the home shall cooperate with the community advisory committee, when such committee has been appointed by the County Commissioners."

Sec. 2. The revisor of statutes shall change all references to G.S. 108-77 in this act to the appropriate section as recodified by Section 2 of Chapter 275, Session Laws of 1981.

Sec. 3. This act shall become effective October 1, 1981, except that G.S. 131C-62 through G.S. 131C-64 shall become effective January 1, 1982.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.

H. B. 1146

CHAPTER 924

AN ACT TO PROVIDE FOR RELEASE OF NONIDENTIFYING ADOPTION INFORMATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 48-2 is amended by directing the Codifier of Statutes to alphabetize the subdivisions and by adding the following new subdivision to read as follows:

“(7) ‘Biological relative’ means the biological parent or parents or biological siblings of an adoptee.”

Sec. 2. Subsection (d) of G.S. 48-25 is rewritten to read as follows:

“(d) Notwithstanding any other provision of law, certain nonidentifying information, if known, shall be given by the county department of social services or licensed child-placing agency which has such information in writing on a form provided by the Department of Human Resources to the adoptive parent or parents not later than the date of finalization of the adoption proceedings. The information described in this subsection, if known, shall, upon written request of the adoptee, be made available to the adoptee upon his reaching the age of 21. This information or any part thereof may be withheld only if it is of such a nature that it would tend to identify a biological relative of the adoptee. For any adoption completed prior to the effective date of this act, the information described in this subsection, if available, shall be given in writing to the adoptive parent or parents or legal guardian of any minor adoptee or to any adoptee who has reached the age of 21 years upon written request by
such person to the agency which has the information. The nonidentifying information, if known, may include only the following:

1. date of the birth of the adoptee and his weight at birth;
2. age of biological parents in years, not dates of birth, at birth of the adoptee;
3. heritage of biological parents which shall consist of nationality, ethnic background, and race;
4. education, which shall be the number of years of school completed by the biological parents at the time of birth of the adoptee;
5. general physical appearance of the biological parents at the time of birth of the adoptee in terms of height, weight, color of hair, eyes, skin;

Sec. 3. G.S. 48-25 is further amended by adding a new subsection (e) to read:

"(e) The county department of social services or licensed child-placing agency shall give if available a complete health history of biological parents and other relatives to the adoptive parent or parents not later than the date of finalization of the adoption proceedings and to the adoptee upon his written request. The information shall be given on a standardized form provided by the Department of Human Resources and shall include any information which would have a substantial bearing on the adoptee's mental or physical health. For any adoption completed prior to the effective date of this act, the information described in this subsection, if available, shall be given in writing to the adoptive parent or parents or legal guardian of any minor adoptee or to any adoptee upon written request by such person to the agency which has the information."

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.

H. B. 1173  CHAPTER 925
AN ACT TO ESTABLISH A PROGRAM TO PURCHASE AND MAINTAIN COASTAL LANDS SUBJECT TO NATURAL HAZARDS FOR BEACH ACCESS AND USE.

The General Assembly of North Carolina enacts:

Section 1. A new Article is added to Chapter 113A of the General Statutes to read:

"ARTICLE 7A.

"Coastal Beach Access Program.

"§ 113A-134.1. Legislative findings.—It is determined and declared as a matter of legislative findings that there are many privately owned lots or tracts of land in close proximity to the Atlantic Ocean in North Carolina that have been and will be adversely affected by the coastal hazards such as erosion, flooding and storm damage. The sand dunes on many of these lots provide valuable protective functions for public and private property and serve as an integral part of the beach sand supply system. Placement of permanent substantial structures on these lots will lead to increased risks of loss of life and property, increased public costs, and potential eventual encroachment of structures onto the beach.
The public has traditionally fully enjoyed the State’s ocean beaches and public access to and use of the beaches. The beaches provide a recreational resource of great importance to North Carolina and its citizens and this makes a significant contribution to the economic well-being of the State. The ocean beaches are resources of statewide significance and have been customarily freely used and enjoyed by people throughout the State. Public access to ocean beaches in North Carolina is, however, becoming severely limited in some areas. Also, the lack of public parking is increasingly making the use of existing public access difficult or impractical in some areas. Public purposes would be served by providing increased access to ocean beaches, public parking facilities, or other related public uses. There is therefore, a pressing need in North Carolina to establish a comprehensive program for the identification, acquisition, improvement and maintenance of public accessways to the ocean beaches.

“§ 113A-134.2. Creation of program; administration; purpose.—There is created the Coastal Beach Access Program, to be administered by the Coastal Resources Commission and the Department of Natural Resources and Community Development, for the purpose of acquiring, improving and maintaining property along the Atlantic Ocean, as provided in this Article.

“§ 113A-134.3. Standards for beach access program.—The Coastal Resources Commission, with the support of the Department of Natural Resources and Community Development, shall establish and carry out a program to assure the acquisition, improvement and maintenance of a system of public access to ocean beaches. This beach access program shall include standards to be adopted by the Commission for the acquisition of property and the use and maintenance of said property. The standards shall be written to assure that land acquisition funds shall only be used to purchase interests in property that will be of benefit to the general public. Priority shall be given to acquisition of lands which, due to adverse effects of coastal natural hazards, such as past and potential erosion, flooding and storm damage, are unsuitable for the placement of permanent structures, including lands for which a permit for improvements has been denied under rules and regulations promulgated pursuant to State law. The program shall be designed to provide and maintain reasonable public access and necessary parking, within the limitations of the resources available, to all areas of the North Carolina coast where access is compatible with the natural resources involved and where reasonable access is not already available as of June 30, 1981. To the maximum extent possible, this program shall be coordinated with State and local coastal management and recreational programs and carried out in cooperation with local governments. Prior to the purchase of any interests in property, the Secretary of Natural Resources and Community Development or his designee shall make a written finding of the public purpose to be served by the acquisition. Once property is purchased, the Department of Natural Resources and Community Development may allow property, without charge, to be controlled and operated by the county or municipality in which the property is located, subject to an agreement requiring that the local government use and maintain the property for its intended public purpose. These land acquisition funds shall not be used to purchase property held for less than two years by the current owner. These funds may be used to meet matching requirements for federal or other funds. The Department of Natural Resources and Community Development shall make every effort to obtain funds from sources other than the General Fund for these purposes.
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Funds may be used to acquire or develop land for pedestrian access including parking or to make grants to local governments to accomplish the purposes of this act. All acquisitions or dispositions of property made pursuant to this Article shall be in accordance with the provisions of Chapter 146 of the General Statutes."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.

H. B. 1221   CHAPTER 926

AN ACT TO AMEND CITY AND COUNTY LAWS RELATING TO PERSONNEL RECORDS.

The General Assembly of North Carolina enacts:

Section 1. (a) G.S. 160A-168(a) and G.S. 153A-98(a) are each amended by inserting between the word "files" and the word "maintained" the words "of employees, former employees, or applicants for employment".

(b) G.S. 160A-168(a) is amended by adding two new sentences to the end thereof, to read: "For purposes of this section, an employee's personnel file consists of any information in any form gathered by the city with respect to that employee and, by way of illustration but not limitation, relating to his application, selection or nonselection, performance, promotions, demotions, transfers, suspension and other disciplinary actions, evaluation forms, leave, salary, and termination of employment. As used in this section, 'employee' includes former employees of the city."

Sec. 2. G.S. 160A-168(c) is amended as follows:

(1) Subdivision (5) is amended by adding a new sentence at the end of the subdivision to read: "However, the official having custody of such records may release the name, address, and telephone number from a personnel file for the purpose of assisting in a criminal investigation."

(2) A new subdivision (6) is added to read:

"(6) An employee may sign a written release, to be placed with his personnel file, that permits the person with custody of the file to provide, either in person, by telephone, or by mail, information specified in the release to prospective employers, educational institutions, or other persons specified in the release."

(3) A new subdivision (7) is added to read:

"(7) The city manager, with concurrence of the council, or, in cities not having a manager, the council may inform any person of the employment or nonemployment, promotion, demotion, suspension or other disciplinary action, reinstatement, transfer, or termination of a city employee and the reasons for that personnel action. Before releasing the information, the manager or council shall determine in writing that the release is essential to maintaining public confidence in the administration of city services or to maintaining the level and quality of city services. This written determination shall be retained in the office of the manager or the city clerk, and is a record available for public inspection and shall become part of the employee's personnel file."

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Sec. 3. G.S. 160A-168 is amended by adding two new subsections (c1) and (c2) to read as follows:

“(c1) Even if considered part of an employee’s personnel file, the following information need not be disclosed to an employee nor to any other person:

1. Testing or examination material used solely to determine individual qualifications for appointment, employment, or promotion in the city’s service, when disclosure would compromise the objectivity or the fairness of the testing or examination process.

2. Investigative reports or memoranda and other information concerning the investigation of possible criminal actions of an employee, until the investigation is completed and no criminal action taken, or until the criminal action is concluded.

3. Information that might identify an undercover law enforcement officer or a law enforcement informer.

4. Notes, preliminary drafts and internal communications concerning an employee. In the event such materials are used for any official personnel decision, then the employee or his duly authorized agent shall have a right to inspect such materials.

(c2) The city council may permit access, subject to limitations they may impose, to selected personnel files by a professional representative of a training, research, or academic institution if that person certifies that he will not release information identifying the employees whose files are opened and that the information will be used solely for statistical, research, or teaching purposes. This certification shall be retained by the city as long as each personnel file examined is retained.”

Sec. 4. G.S. 160A-168(e) is rewritten to read:

“(e) A public official or employee who knowingly, willfully, and with malice permits any person to have access to information contained in a personnel file, except as is permitted by this section, is guilty of a misdemeanor and upon conviction shall be fined an amount not more than five hundred dollars ($500.00).”

Sec. 5. G.S. 153A-98(a) is amended by adding two new sentences to the end thereof to read as follows:

“For purposes of this section, an employee’s personnel file consists of any information in any form gathered by the county with respect to that employee and, by way of illustration but not limitation, relating to his application, selection or nonselection, performance, promotions, demotions, transfers, suspension and other disciplinary actions, evaluation forms, leave, salary, and termination of employment. As used in this section, ‘employee’ includes former employees of the county.”

Sec. 6. G.S. 153A-98(c) is amended as follows:

1. Subdivision (5) is amended by adding a new sentence at the end of the subdivision to read: “However, the official having custody of such records may release the name, address, and telephone number from a personnel file for the purpose of assisting in a criminal investigation.”

2. A new subdivision (6) is added to read:

“(6) An employee may sign a written release, to be placed with his personnel file, that permits the person with custody of the file to provide, either in person, by telephone, or by mail, information specified in the release to
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prospective employers, educational institutions, or other persons specified in the release."

(3) A new subdivision (7) is added to read:

"(7) The county manager, with concurrence of the board of county commissioners, or, in counties not having a manager, the board of county commissioners may inform any person of the employment or nonemployment, promotion, demotion, suspension or other disciplinary action, reinstatement, transfer, or termination of a county employee and the reasons for that personnel action. Before releasing the information, the manager or board shall determine in writing that the release is essential to maintaining public confidence in the administration of county services or to maintaining the level and quality of county services. This written determination shall be retained in the office of the manager or the county clerk, is a record available for public inspection and shall become part of the employee's personnel file."

Sec. 7. G.S. 153A-98 is amended by adding two new subsections (c1) and (c2) to read as follows:

"(c1) Even if considered part of an employee’s personnel file, the following information need not be disclosed to an employee nor to any other person:

(1) Testing or examination material used solely to determine individual qualifications for appointment, employment, or promotion in the county’s service, when disclosure would compromise the objectivity or the fairness of the testing or examination process.

(2) Investigative reports or memoranda and other information concerning the investigation of possible criminal actions of an employee, until the investigation is completed and no criminal action taken, or until the criminal action is concluded.

(3) Information that might identify an undercover law enforcement officer or a law enforcement informer.

(4) Notes, preliminary drafts and internal communications concerning an employee. In the event such materials are used for any official personnel decision, then the employee or his duly authorized agent shall have a right to inspect such materials.

(c2) The board of county commissioners may permit access, subject to limitations they may impose, to selected personnel files by a professional representative of a training, research, or academic institution if that person certifies that he will not release information identifying the employees whose files are opened and that the information will be used solely for statistical, research, or teaching purposes. This certification shall be retained by the county as long as each personnel file so examined is retained."

Sec. 8. G.S. 153A-98(e) is rewritten to read:

"(e) A public official or employee who knowingly, willfully, and with malice permits any person to have access to information contained in a personnel file, except as is permitted by this section, is guilty of a misdemeanor and upon conviction shall be fined an amount not more than five hundred dollars ($500.00)."

Sec. 9. This act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.
H. B. 1233  CHAPTER 927
AN ACT TO AMEND THE EMERGENCY SERVICES ACT OF 1973 RELATING TO ADMINISTRATION OF EPINEPHRINE BY TRAINED LAY PERSONS IN EMERGENCY SITUATIONS CAUSED BY INSECT STINGS.

The General Assembly of North Carolina enacts:

Section 1. Section 143-509 of the General Statutes is amended by adding the following subdivision:

"(9) Promote a means of training individuals to administer life-saving treatment to persons who suffer a severe adverse reaction to insect stings. Individuals, upon successful completion of this training program, may be approved by the Board of Medical Examiners to administer epinephrine to these persons, in the absence of the availability of physicians or other practitioners who are authorized to administer the treatment. This training may also be offered as part of the emergency medical technician training program."

Sec. 2. Nothing herein contained shall he construed to obligate the General Assembly to make additional appropriations to implement the provisions of this act.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.

H. B. 430  CHAPTER 928
AN ACT TO PERMIT LAW ENFORCEMENT OFFICERS TO TRANSPORT RELEASED PERSONS.

The General Assembly of North Carolina enacts:

Section 1. A new section is added to Chapter 15A of the General Statutes to read:

"§ 15A-504. Return of released person.—(a) Upon a magistrate's finding under G.S. 15A-511(c)(2) of no probable cause for a warrantless arrest, a law enforcement officer may return the person previously arrested and any other person accompanying him to the scene of the arrest.

(b) No officer acting pursuant to this section may be held to answer in any civil or criminal action for injury to any person or damage to any property when damage results, whether directly or indirectly, from the actions of the person so released or transported.

(c) Nothing in this section shall be construed to supersede the provisions of G.S. 122-65.11."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.
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S. B. 570  CHAPTER 929

AN ACT REGARDING FUNDS FOR DEFERRED PROSECUTION AND COMMUNITY SERVICE RESTITUTION FOR YOUTHFUL AND ADULT OFFENDERS.

The General Assembly of North Carolina enacts:

Section 1. The Department of Crime Control and Public Safety may conduct a deferred prosecution, community service restitution and volunteer program for youthful and adult offenders if funds are available.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.

S. B. 629  CHAPTER 930

AN ACT TO ESTABLISH A STUDY COMMISSION TO STUDY COMMERCIAL FISHING LICENSES AND SHELLFISH LEASES.

Whereas, the laws concerning licensing of commercial fishing activities have not been materially changed since 1965; and

Whereas, the laws concerning the leasing of State-owned submerged lands for the purpose of shellfish production contain many provisions which have not been changed since 1893; and

Whereas, greater numbers of people are utilizing the marine resources of the State and conflicts are arising more frequently due to incompatible methods of using these resources; and

Whereas, there is a need to study the laws relating to the licensing of commercial fishing activities, the leasing of submerged lands for shellfish production, and the resolution of conflicting uses of marine resources in order to determine if these laws address the changes in society which have occurred since their enactment; and

Whereas, other matters relating to marine fisheries also need to be studied; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Study commission created. The Marine Fisheries Study Commission is hereby created.

Sec. 2. Duties. The Marine Fisheries Study Commission shall study (i) the existing statutes concerning licensing of commercial fishing activities, (ii) the existing statutes concerning the leasing of State-owned submerged lands for the purposes of shellfish production, (iii) the need for additional laws to address problems arising out of conflicting uses of marine resources, and (iv) such other matters relating to marine fisheries as it deems important.

Sec. 3. Organization. (a) The Commission shall consist of 10 members to be appointed as follows:

(1) Three members of the House of Representatives appointed by the Speaker of the House of Representatives;

(2) Three members of the Senate appointed by the President Pro Tempore of the Senate;

(3) Three persons appointed by the Governor who are actively engaged in commercial fishing in North Carolina; all of whom shall reside in the Coastal Plain; and

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(4) The Chairman of the Marine Fisheries Commission, who shall serve ex officio.

(b) All appointments shall be made no later than September 1, 1981.

(c) The Speaker and President Pro Tempore shall each choose a cochairman from the membership of the Commission no later than September 15, 1981.

(d) The cochairmen shall jointly call the first meeting of the Commission.

(e) All vacancies shall be filled by the appointing officer.

Sec. 4. Staff assistance. The Legislative Services Commission shall provide staff assistance to the Commission. The Marine Fisheries Study Commission may call on the Division of Marine Fisheries, Department of Natural Resources and Community Development for additional staff assistance, which shall be provided under the direction of the Marine Fisheries Study Commission.

Sec. 5. Compensation. State employees serving as staff to the Commission shall be entitled to allowances from the Department by which they are employed in accordance with G.S. 138-6. Members of the General Assembly serving on the Commission shall be entitled to allowances in accordance with G.S. 120-3.1. The Chairman of the Marine Fisheries Commission and members appointed by the Governor and serving on the Commission shall be entitled to per diem and allowances from the budget of the Department of Natural Resources and Community Development in accordance with G.S. 138-5.

Sec. 6. Report. The Commission shall make a report to the General Assembly no later than April 1, 1982, containing the recommendations of the Commission as to the need for changes in existing statutes or administrative regulations or the need for new statutes or regulations. The Commission shall terminate upon submission of its report.

Sec. 7. There is appropriated from the General Fund to the Marine Fisheries Study Commission for fiscal year 1981-82 the sum of eight thousand dollars ($8,000) to cover all expenses of the Commission other than those paid by the Department of Natural Resources and Community Development under Section 5 of this act.

Sec. 8. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.

H. B. 72  CHAPTER 931

AN ACT TO PROVIDE ASSISTANCE FOR VICTIMS OF RAPE AND SEX OFFENSES.

The General Assembly of North Carolina enacts:

Section 1. This act shall be known and may be cited as the Assistance Act for Victims of Rape and Sex Offenses.

Sec. 2. Article 11, Chapter 143B of the General Statutes, is hereby amended by adding a new Part 3A as follows:

"PART 3A.

"Assistance Program for Victims of Rape and Sex Offenses.

§ 143B-480.1. Assistance Program for Victims of Rape and Sex Offenses.—There is established an Assistance Program for Victims of Rape and Sex
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Offenses, hereinafter referred to as the 'Program'. The Governor's Crime Commission shall administer and implement the Program and shall have authority over all assistance awarded through the Program. The Governor's Crime Commission shall promulgate rules and guidelines for the Program.

"§ 143B-480.2. Victim assistance.—(a) Only victims who have reported the following crimes are eligible for assistance under this Program: first-degree rape as defined in G.S. 14-27.2, second-degree rape as defined in G.S. 14-27.3, first-degree sexual offense as defined in G.S. 14-27.4, second degree sexual offense as defined in G.S. 14-27.5, or attempted first-degree or second-degree rape or attempted first-degree or second-degree sexual offense as defined in G.S. 14-27.6. Assistance is limited to immediate and short-term medical expenses, not to exceed five hundred dollars ($500.00), incurred by the victim during the medical examination and treatment and medical procedures to collect evidence which follow the attack.

(b) Assistance for medical expenses authorized under this section is to be paid directly to the attending hospital and physicians upon the filing of the proper forms in the manner prescribed in the guidelines promulgated by the Governor's Crime Commission together with a certified copy of the police report.

(c) Assistance shall not be awarded unless the rape, attempted rape, sexual offense, or attempted sexual offense was reported to a law enforcement officer within 72 hours after its occurrence or the Governor's Crime Commission finds there was good cause for the failure to report within that time.

(d) Upon an adverse determination by the Governor's Crime Commission on a claim for medical expenses, a victim is entitled to judicial review of that decision. The person seeking review shall file a petition in the Superior Court of Wake County.

"§ 143B-480.3. Reduction of benefits; restitution; actions.—(a) Assistance shall be reduced or denied to the extent the medical expenses are recouped through a public or private insurance plan or other victim benefit source.

(b) The Program shall be an eligible recipient for restitution or reparation under G.S. 15A-1021, G.S. 15A-1343, G.S. 148-33.1, G.S. 148-33.2, G.S. 148-57.1, and any other applicable statutes.

(c) When any victim who:

(1) has received assistance under this Part;
(2) brings an action for damages arising out of the rape, attempted rape, sexual offense, or attempted sexual offense for which she received that assistance; and
(3) recovers damages including the expenses for which she was awarded assistance,
the court shall make as part of its judgment an order for reimbursement to the Program of the amount of any assistance awarded less reasonable expenses allocated by the court to that recovery."

Sec. 3. G.S. 143B-479(a) is amended by inserting the following new subsection (10) and renumbering the present subsections accordingly:

“(10) Administer the Assistance Program for Victims of Rape and Sex Offenses in accordance with G.S. 143B-480.1 et seq.”

Sec. 4. Funds appropriated to the Department of Crime Control and Public Safety, including those designated as matching contribution grants under
the State Aid for the Governor's Crime Commission Program, may be used for the implementation of this act.

Sec. 5. This act shall not apply to any rape, attempted rape, sexual offense, or attempted sexual offense which occurs prior to the effective date of this act.

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.

H. B. 115

CHAPTER 932

AN ACT TO REPEAL THE SUNSET LAW AND TO REPLACE THE GOVERNMENTAL EVALUATION COMMISSION WITH A LEGISLATIVE COMMITTEE ON AGENCY REVIEW, WHICH WILL COMPLETE THE PROCESS OF REVIEWING LAWS AND PROGRAMS THAT WERE ON THE SUNSET LIST.

The General Assembly of North Carolina enacts:

Section 1. General Statutes Chapter 143, Article 1.1 ("Periodic Review of Certain Agencies") is repealed except for G.S. 143-34.11, effective June 30, 1981, except that this section does not repeal that Article as it applies to the subjects covered by any of the following bills (1981 Session) which have not been ratified before the adjournment of the Spring 1981 Session of the General Assembly: House Bills 279, 283, 284, 286, 287, 288, 294, 295, 297, 298, and 300.

Sec. 2. There is added to General Statutes Chapter 143, following Article 1.1, a new Article to be numbered 1.2 and to read as follows:

"ARTICLE 1.2.

"Legislative Committee on Agency Review.

"§ 143-34.25. Creation of Legislative Committee on Agency Review; staffing; compensation; termination.—(a) There is created a temporary legislative committee to be known as the Committee on Agency Review (hereinafter referred to as 'The Committee'). The Committee is composed of 10 members, five Representatives appointed by the Speaker of the House and five Senators appointed by the President Pro Tempore of the Senate. The members serve for two-year terms, beginning July 1, 1981, or until they cease to be members of the General Assembly, whichever occurs first. The appointing officers shall designate two of the members to serve as cochairmen. Any vacancy that occurs in the membership of the Committee shall be filled for the remainder of the unexpired term by the officer making the original appointment. A quorum consists of a cochairman and any four other members of the Committee.

(b) Members of the Committee shall be compensated pursuant to G.S. 120-3.1.

(c) The Committee shall be staffed by the Legislative Services Commission, but the Committee may also employ such additional professional services as it deems necessary.

(d) The Committee shall terminate and the authority granted by this Article shall expire on June 30, 1983.

"§ 143-34.26. Functions of Committee.—(a) The Committee shall review and evaluate the programs and functions authorized under the following laws:

(1) DEPARTMENT OF AGRICULTURE
Public Weighmasters (Chapter 81A, Article 5).
Landscape Contractors (Chapter 89D).
North Carolina Commercial Fertilizer Law (Chapter 106, Article 56)
Structural Pest Control Act (Chapter 106, Article 4C).
Marketing of Farmers Stock Peanuts (Chapter 106, Article 5A).
Food, Drugs and Cosmetics (Chapter 106, Article 12).
State Inspection of Slaughterhouses (Chapter 106, Article 14).
Licensing and Regulation of Rendering Plants and Rendering Operations (Chapter 106, Article 14A).
Meat Grading Law (Chapter 106, Article 15A).
Marketing and Branding Farm Products (Chapter 106, Article 17).
Regulation of Production, Distribution, etc., of Milk and Cream (Chapter 106, Article 28B).
Inspection, Grading, and Testing Milk and Dairy Products (Chapter 106, Article 29).
North Carolina Seed Law (Chapter 106, Article 31).
Feeding Garbage to Swine (Chapter 106, Article 34, Part 10).
Public Livestock Markets (Chapter 106, Article 35).
Livestock Dealer Licensing Act (Chapter 106, Article 35B).
Unfair Practices by Handlers of Fruits and Vegetables (Chapter 106, Article 44).
Poultry; Hatcheries; Chick Dealers (Chapter 106, Article 49).
Grain Dealers (Chapter 106, Article 53) and Adulteration of Grains (Article 54).
Pesticide Applicators and Consultants (Chapter 143, Article 52, Part 4).
Pesticide Dealers and Manufacturers (Chapter 143, Article 52, Part 3).

(2) DEPARTMENT OF INSURANCE
Bail Bondsmen and Runners (Chapter 85C).
Collection Agencies (Chapter 66, Article 9A).
Motor Clubs and Associations (Chapter 66, Article 9B).
Authority over all insurance companies, no exemptions from license (G.S. 58-15).
Agents and others must procure license (G.S. 58-40).
Insurance Premium Financing (Chapter 58, Article 4).

(3) DEPARTMENT OF LABOR
Passenger Tramways (Chapter 95, Article 15).

(4) DEPARTMENT OF JUSTICE
Private Protective Services Act (Chapter 74C).

(5) DEPARTMENT OF ADMINISTRATION
Day-Care Facilities (Chapter 110, Article 7).
Child Day-Care Licensing Commission (Chapter 143B, Article 9, Part 4).

(6) DEPARTMENT OF HUMAN RESOURCES
Nursing Home Administration (Chapter 90, Article 20).
Licensing of Private Institutions (maternity homes, homes for the aged and infirm, private child-care institutions) (Chapter 108, Article 3, Part 2).
Control over Child-Caring Facilities (Chapter 110, Article 3).
Licensing of Local Mental Health Facilities (Chapter 122, Article 2F).
Licensing and Control of Area Mental Health, Mental Retardation and Substance Abuse Institutions and Homes (G.S. 122-72).
Regulation of Ambulance Services (Chapter 130, Article 26).
Hospital Licensing Act (Chapter 131, Article 13A).
Licensing of Ambulatory Surgical Facilities (Chapter 186, Article 226).
Sanitarians (Chapter 90A, Article 1).
Midwives (Chapter 90, Article 10), and Midwives (Chapter 130, Article 18).
North Carolina Radiation Protection Act (Chapter 104E).
(7) DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT
Wastewater Treatment Plant Operators (Chapter 90A, Article 3).
Wastewater Treatment Plant Operators Certification Commission (Chapter 143B, Article 7, Part 9).
Coastal Area Management (Chapter 113A, Article 7).
Water and Air Resources (Chapter 143, Article 21 (except Part 3).
Oil Pollution Control (Chapter 143, Article 21A).
Air Pollution Control (Chapter 143, Article 21B).
Water Resources (Chapter 143, Article 38).
Environmental Management Commission (Chapter 143B, Article 7, Part 4).
Administrative Provisions; Regulatory Authority of Marine Fisheries Commission and Department (Chapter 113, Article 17).
North Carolina Game Law of 1935 (Chapter 113, Article 7).
(8) DEPARTMENT OF COMMERCE
Board of commissionners of navigation and pilotage for the Cape Fear River and Bar (Chapter 76, Article 1).
Morehead City Navigation and Pilotage Commission (Chapter 76, Article 6).
(9) DEPARTMENT OF TRANSPORTATION
Professional House Moving (Chapter 20, Article 16).
(10) OTHERS
Practice of Funeral Service (Chapter 90, Article 13A).
Practicing Psychologists (Chapter 90, Article 18A).
Auctions and Auctioneers (Chapter 85B).
North Carolina State Commission on Indian Affairs (Chapter 143B, Part 15).
Foresters (Chapter 89B).
Osteopathy (Chapter 90, Article 7).
(b) The Committee may develop legislative recommendations concerning the programs and functions that it is charged to review. In developing such recommendations (if any) the Committee shall proceed with a view to continuing productive, efficient and active programs which are in the public interest, to eliminating inactive programs, and to eliminating or consolidating overlapping or duplicating programs; and may consider the extent to which changes are needed in enabling laws.

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(c) The citations and titles in subsection (a) of this section are listed for convenience only. It is the intention of the General Assembly that all of the agencies and programs covered in subsection (a) are to be reviewed by the Committee whether or not the provisions and codification of the enabling laws for those agencies and programs are changed.

"§ 143-34.27. Procedure in developing Committee recommendations.—(a) By January 1, 1982, each department listed in G.S. 143-34.26(a), whose programs are to be reviewed by the Committee, shall submit to the Committee its recommendations for retention or termination of those programs, and for changes (if any) in the enabling laws for those programs, together with supporting reasons for its recommendations. By January 1, 1982, the Legislative Services Office shall submit to the Committee its recommendations for retention or termination of the programs listed in G.S. 143-34.26(a)(10), and for changes (if any) in the enabling laws for those programs, together with supporting reasons for its recommendations. The recommendations of the departments and of the Legislative Services Office shall identify:

1. any functions which in their opinion are being duplicated by another State agency, together with their recommendations (if any) for eliminating the duplication; and

2. any functions which in their opinion are inconsistent with current and projected public demands and should be terminated or altered.

(b) On the basis of the recommendations submitted under subsection (a) of this section, and other available information, the Committee shall prepare tentative recommendations concerning the programs and agencies listed in G.S. 143-34.26(a) and shall make its tentative recommendations available to the responsible departments and offices by July 1, 1982. The Committee shall hold at least one public hearing concerning any program, function or agency as to which it tentatively recommends termination or statutory amendment, at which hearing the affected agency and any other interested persons may present data, views and arguments. Hearings for more than one agency or program or function may be held on the same day. The Committee shall give at least 10 days’ notice, by publication at least once in one newspaper of general circulation in Wake County, of the public hearing, including the following:

1. a reference to the statutory authority for the evaluation;

2. the time and place of the hearing and a statement of the manner in which data, views, and arguments may be submitted either at the hearing or at other times by any person; and

3. a brief summary of the Committee’s recommendations.

(c) Upon completion of the hearing and consideration of written statements or other evidence submitted, the Committee shall make its final decisions with respect to the program or function and shall prepare a report thereon for the General Assembly together with any recommended legislation. Copies of the report and the recommended legislation shall be filed with the Attorney General and shall be mailed or delivered to the agency responsible for the program or function.

(d) The Committee is authorized to meet in the State Legislative Building when the General Assembly is not in session, subject to the determination by the Legislative Services Commission that space is available. The Committee shall hold its initial meeting at the Legislative Building on October 9, 1981, at 10:00 a.m., unless another date and time are set by the cochairs."
Sec. 2.1. Session Laws 1973, Chapter 1284, Section 3, as amended by Session Laws 1975, Chapter 452, Section 5, is hereby amended to delete the words and punctuation ",", and the entire act shall expire on June 30, 1983.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.

H. B. 1141  CHAPTER 933
AN ACT TO AMEND G.S. 24-10(d) CONCERNING ASSUMPTION FEES ON REAL PROPERTY LOANS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 24-10(d) is rewritten to read as follows:

"(d) Any lender may charge to any person, persons, firm or corporation that assumes a loan, made under the provisions of G.S. 24-1.1 and secured by real property, a fee not to exceed one hundred seventy-five dollars ($175.00); provided, however, that if the original obligor is not released from liability on the obligation, the fee shall not exceed one hundred dollars ($100.00). The fees authorized by this subsection may be paid in whole or in part by any party but the total shall not exceed the maximum fees set forth herein."

Sec. 2. This act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.

H. B. 1278  CHAPTER 934
AN ACT TO AMEND THE PREVIOUS 1981 ACTS CONCERNING USURY LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 24-1.1(3), as rewritten by Section 1 of Chapter 465 of the 1981 Session Laws, is amended by rewriting the last sentence of that subdivision to read:

"The rate so announced shall be the maximum rate permitted for the term of loans made under this section during the following calendar month."

Sec. 2. G.S. 24-1.2(3), as enacted by Section 1 of Chapter 464 of the 1981 Session Laws, is amended by rewriting the last sentence of that subdivision to read:

"The rate so announced shall be the maximum rate permitted for the term of loans made under this section during the following calendar month."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.
CHAPTER 935  Session Laws—1981

H. B. 1346  CHAPTER 935

AN ACT TO DIRECT THE COURTS COMMISSION TO STUDY THE COLLECTION OF MONEY JUDGMENTS.

The General Assembly of North Carolina enacts:

Section 1. The North Carolina Courts Commission is directed to study the machinery for the collection of money judgments and the court fees applicable to the process of collection. In such study, the Commission shall examine House Bill 564, 1981 Session as originally introduced. The Commission shall make recommendations as to the procedure for collection and shall make recommendations so that adequate revenue may be provided to offset any additional cost of administering legislation it may recommend.

Sec. 2. The Commission may in its study seek out testimony from clerks of court and judges about the effects of money judgment collection legislation.

Sec. 3. The Commission shall make its recommendation to the 1982 Session, and it shall be in order to introduce legislation in the 1982 Session to implement its recommendations. Further recommendations may also be made to the 1983 Session.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.

H. B. 1349  CHAPTER 936

AN ACT TO MANDATE THAT THE DEPARTMENT OF HUMAN RESOURCES HOUSE CERTAIN RESIDENTS IN OR ESCAPEES FROM ITS INSTITUTIONS WHO HAVE COMMITTED CRIMES WHILE STILL RESIDING IN THE INSTITUTION OR SUBSEQUENT TO ESCAPE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 122 is amended by adding a new section to read:

"§ 122-58.27. Housing responsibility for certain residents in or escapees from involuntary commitment.—(a) Any individual who has been involuntarily committed under the provisions of this Article to a mental health facility designated or licensed by the Department of Human Resources:

(1) Who escapes from or is absent without authorization from the facility prior to being discharged; and

(2) Who is charged with a criminal offense committed after the escape or during the unauthorized absence; and

(3) Whose involuntary commitment is determined to be still valid by the judge or judicial officer who made the pretrial release determination regarding the criminal offense under the provisions of G.S. 15A-533 and G.S. 15A-534; or

(4) Who is charged with committing a crime while still residing in the facility and whose commitment is still valid as prescribed by subdivision (3) of this section;

shall be denied pretrial release pursuant to G.S. 15A-533 and G.S. 15A-534. In lieu of pretrial release, however, the individual shall be returned to the treatment facility in which he was residing at the time of the alleged crime or from which he escaped or absented himself for continuation of his treatment pending the additional proceedings on the criminal offense.

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(b) Absent findings of lack of mental responsibility for his criminal offense or lack of competency to stand trial for the criminal offense, the involuntary commitment of an individual as described in subsection (a) shall not be utilized in lieu of nor shall it constitute a bar to proceeding to trial for the criminal offense. At any time that the district court, acting under the provisions of G.S. 122-58.7 and G.S. 122-58.8, or G.S. 122-58.11, or the chief of medical services of the mental health facility, acting under the provisions of G.S. 122-58.13, finds that the individual should be unconditionally discharged, committed for outpatient treatment, or conditionally released, the mental health facility shall notify the clerk of superior court in the county in which the criminal charge is pending prior to effecting the change in status. At this time, a pretrial release determination pursuant to the provisions of G.S. 15A-533 and G.S. 15A-534 shall be made. In this event, arrangements for returning the individual for the pretrial release determination shall be the responsibility of the clerk of superior court.

(c) An individual who has been processed in accordance with subsections (a) and (b) of this section may not later be returned to a mental health facility prior to trial except pursuant to involuntary commitment proceedings by the district court in accordance with the preceding sections of this Article or after proceedings in accordance with the provisions of G.S. 15A-1002 or G.S. 15A-1321."

Sec. 2. G.S. 15A-533 is amended by adding a new sentence at the beginning of the section, before subsection (a), to read:

"A defendant charged with any crime, whether capital or noncapital, who is alleged to have committed this crime while still residing in or subsequent to his escape or during an unauthorized absence from involuntary commitment in a mental health facility designated or licensed by the Department of Human Resources, and whose commitment is determined to be still valid by the judge or judicial officer authorized to determine pretrial release to be valid, has no right to pretrial release. In lieu of pretrial release, however, the individual shall be returned to the treatment facility in which he was residing at the time of the alleged crime or from which he escaped or absented himself for continuation of his treatment pending the additional proceedings on the criminal offense."

Sec. 3. This act shall become effective October 1, 1981, and applies to persons alleged to have committed crimes on or after this date.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.

H. B. 427  CHAPTER 937

AN ACT TO REWRITE GENERAL STATUTES CHAPTER 8A PROVIDING INTERPRETERS FOR DEAF PERSONS IN CERTAIN JUDICIAL, LEGISLATIVE, AND ADMINISTRATIVE PROCEEDINGS, AND FOR RELATED PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 8A of the General Statutes, titled "Interpreters for Deaf Persons", is rewritten to read:

"Chapter 8A.

"Interpreters for Deaf Persons.

"§ 8A-1. Definitions.—As used in this Chapter:
(1) 'Deaf person' means a person whose hearing impairment is so significant that the individual is impaired in processing linguistic information through hearing, with or without amplification.

(2) 'Qualified interpreter' means an interpreter certified as qualified under standards and procedures promulgated by the Department of Human Resources. If the appointing authority finds that an interpreter possessing these qualifications is not available, an interpreter without these qualifications may be called and used as a qualified interpreter if the interpreter's actual qualifications have otherwise been determined to be adequate for the present need. In no event will an interpreter be considered qualified if the interpreter is unable to communicate effectively with and simultaneously and accurately interpret for the deaf person.

A deaf person who does not utilize sign language may request an aural/oral interpreter. Before this interpreter is appointed, the appointing authority shall satisfy itself that the aural/oral interpreter is competent to interpret the proceedings to the deaf person and to present the testimony, statements, and any other information tendered by the deaf person.

(3) 'Appointing authority' means the presiding judge or clerk of superior court in a judicial proceeding, or a hearing officer, examiner, commissioner, chairman, presiding officer or similar official in a legislative or administrative proceeding.

"§8A-2. Interpreters provided in certain judicial, legislative, and administrative proceedings; circumstances; timing; removal.—(a) When a deaf person is a party to or a witness in any civil or criminal proceeding in any superior or district court of the State, including juvenile proceedings, special proceedings, and proceedings before the magistrate, the court shall appoint a qualified interpreter to interpret the proceedings to the deaf person and to interpret the deaf person's testimony, if any.

(b) When a deaf person is a witness before any legislative committee or subcommittee or legislative research or study committee or subcommittee or commission authorized by the General Assembly, the appointing authority conducting the proceeding shall appoint a qualified interpreter to interpret the proceedings to the deaf person and to interpret the deaf person's testimony.

(c) When a deaf person is a party to or a witness in an administrative proceeding before any department, board, commission, agency or licensing authority of the State, or of any county or city of the State, the appointing authority conducting the proceeding shall appoint a qualified interpreter to interpret the proceedings to the deaf person and to interpret the deaf person's testimony, if any.

(d) If a deaf person is arrested for an alleged violation of criminal law of the State, including a local ordinance, the arresting officer shall immediately procure a qualified interpreter from the appropriate court for any interrogation, warning, notification of rights, arraignment, bail hearing or other preliminary proceeding, but no arrestee otherwise eligible for release on bail under Article 26 of Chapter 15A of the General Statutes shall be held in custody pending the arrival of an interpreter. No answer, statement or admission taken from the deaf person without a qualified interpreter present and functioning is admissible in court for any purpose.

(e) Whenever a juvenile whose parent or parents are deaf is brought before a court for any reason whatsoever, the court shall appoint a qualified interpreter to interpret the proceedings and testimony for the deaf parent or parents, and
to interpret any statements or testimony the deaf parent or parents may be called upon to give to the court.

(f) A qualified interpreter shall not be appointed until the appointing authority makes a preliminary determination that the interpreter is able to communicate effectively with and to interpret accurately for the deaf person. If no qualified interpreter can be found who can successfully communicate with this person, he may select his own interpreter without regard to whether the interpreter is 'qualified' within the meaning set forth under this statute.

(g) The appointing authority may, on its own motion or on the request of the deaf person, remove an interpreter for inability to communicate or because his services have been waived.

"§ 8A-3. Waiver.—(a) A deaf person entitled to the services of an interpreter under this Chapter may waive these services. The waiver must be approved in writing by the person's attorney. If the person does not have an attorney, approval must be made in writing by the appointing authority.

(b) A deaf person who has waived an interpreter under this section may provide his own interpreter at his own expense, without regard to whether such interpreter is qualified under this Chapter.

"§ 8A-4. Notice of need for interpreter; proof of deafness.—A deaf person entitled to an interpreter under this Chapter shall, if practicable, notify the appropriate appointing authority of his need prior to his appearance. A failure to notify or to request an interpreter is not a waiver of the right to an interpreter. Before appointing an interpreter, an appointing authority may require satisfactory proof of the requesting person's deafness if he has reason to believe the person is not hearing impaired.

"§ 8A-5. Privileged communications.—If a communication made by the deaf person through an interpreter is privileged, the privilege extends also to the interpreter.

"§ 8A-6. List of interpreters; coordination of interpreter services.—The Department of Human Resources shall prepare and maintain an up-to-date list of qualified and available interpreters. A copy of the list shall be provided to each clerk of superior court. When requested by an appointing authority to provide an interpreter the N. C. Council for the Hearing Impaired shall assist in arranging for an interpreter at the time and place needed through its program of Community Services for the Hearing Impaired.

"§ 8A-7. Oath.—Before acting, an interpreter shall take an oath or affirmation that he will make a true interpretation in an understandable manner of the proceedings to the person for whom he is appointed and that he will convey the statements of the person in the English language to the best of his skill and judgment.

"§ 8A-8. Compensation.—(a) An interpreter appointed under this Chapter is entitled to a reasonable fee for his services, including waiting time, and reimbursement for necessary travel and subsistence expenses. The fee shall be fixed by the appointing authority who shall consider any fee schedule for interpreters recommended by the Department of Human Resources. Reimbursement for necessary travel and subsistence expenses shall be at rates provided by law for State employees generally.

(b) The fees and expenses of interpreters who serve before any superior or district court criminal and juvenile proceeding are payable from funds appropriated to the Administrative Office of the Courts.
(c) The fees and expenses of interpreters who serve in civil cases and special proceedings are also payable from funds appropriated to the Administrative Office of the Courts.

(d) Fees and expenses of interpreters who serve before a legislative body described in this Article are payable from funds appropriated for operating expenses of the General Assembly.

(e) Fees and expenses of interpreters who serve before any State administrative agency are payable by that agency. The agency shall, upon application to the Department of Administration, be reimbursed for payments made.

(f) Fees and expenses of interpreters who serve before city or county administrative proceedings are payable by the respective city or county. During the fiscal biennium 1981-83, the city or county shall, upon application to the Department of Administration, be reimbursed for payments made.

(g) The Department of Administration and the Office of State Budget and Management shall report to the 1983 General Assembly on the satisfactoriness of the funding of this act by special reserve funds and shall recommend whether this funding be continued and new appropriations made or whether continued reserve funding is unnecessary."

Sec. 2. Responsibility for payment of funds to implement this act rest with the particular entity specified in G.S. 8A-8 whose procedure required the service.

Sec. 3. G.S. 7A-450(a) is amended by adding the following sentence to read:

"An interpreter is a necessary expense as defined in Chapter 8A of the General Statutes for a deaf person who is entitled to counsel under this subsection."

Sec. 4. This act shall become effective October 1, 1981, and applies to all trial court, legislative, or administrative proceedings initiated or in process on or after that date.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.

S. B. 650

CHAPTER 938

AN ACT TO PROVIDE FOR SERVICE OF NOTICE OF REVOCATION OF OPERATORS' LICENSES AND VEHICLE REGISTRATIONS BY MAIL AND TO DELETE THE REQUIREMENT THAT PICKUP ORDERS BE SERVED BY LAW ENFORCEMENT OFFICERS.

The General Assembly of North Carolina enacts:

Section 1. The second sentence of G.S. 20-29 is amended by deleting the words and punctuation ",", and such patrolmen and peace officers, while"" and substituting: "or may be served in accordance with G.S. 20-48. Patrolmen and peace officers, while"

Sec. 2. G.S. 20-45 is amended by designating the existing paragraph as subsection (a) and adding a new subsection to read:

"(b) Nothing contained herein or elsewhere shall be construed to require the Division to take possession of any certificate of title, registration card permit, license, or registration plate which has expired, been revoked, canceled or suspended or which is fictitious or which has been unlawfully or erroneously
issued, or which has been unlawfully used. The Division may give notice to the owner, licensee or lessee of its authority to take possession of any ownership document, operator's license, or plate and require that person to surrender it to the Commissioner or his officers or agents. Any person who fails to surrender the ownership document, operator's license, or plate, or any duplicate thereof upon personal service of notice or within 10 days after receipt of notice by mail, as provided in G.S. 20-48, shall be guilty of a misdemeanor."

Sec. 3. G.S. 20-111(4) is amended at the end by adding a new sentence to read:

"Service of the demand shall be in accordance with G.S. 20-48."

Sec. 4. G.S. 20-312 is amended by adding a new sentence at the end to read:

"Notice of revocation of the certificate of registration or registration plates shall be issued in accordance with G.S. 20-48."

Sec. 5. G.S. 20-20, as the same is found in the 1980 Interim Supplement to the General Statutes, is repealed.

Sec. 6. This act shall become effective January 1, 1982, and shall apply to any revocation, cancellation, suspension or other demand by the Commissioner to be issued on or after the effective date.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.

S. B. 502

CHAPTER 939

AN ACT SETTING FORTH DUTIES OF SKIERS AND SKI AREA OPERATORS AND LIMITATIONS THEREOF.

The General Assembly of North Carolina enacts:

Section 1. The General Statutes of North Carolina are hereby amended by adding a new Chapter thereto to read as follows:

"CHAPTER 99C.

"Actions Relating to Skier Safety and Skiing Accidents.

"§ 99C-1. Definitions.—When used in this Chapter, unless the context otherwise requires:

(1) 'Skier' means any person who is wearing skis or any person who for the purpose of skiing is on a designated and clearly marked ski slope or ski trail that is located at a ski area, or any person who is a passenger or spectator at a ski area.

(2) 'Passenger' means any person who is being transported or is awaiting transportation, or being conveyed on a passenger tramway or is moving from the disembarkation point of a passenger tramway or is in the act of embarking upon or disembarking from a passenger tramway.

(3) 'Passenger Tramway' shall mean any device used to transport passengers uphill on skis, or in cars on tracks, or suspended in the air, by the use of steel cables, chains, belts or ropes. Such definition shall include such devices as a chair lift, J Bar, or platter pull, rope tow, and wire tow.

(4) 'Ski Area' means all the ski slopes, ski trails, and passenger tramways, that are administered or operated as a ski area enterprise within this State.

(5) 'Ski Area Operator' means a person, corporation, or organization that is responsible for the safe operation and maintenance of the ski area.
(6) 'Competitor' means a skier actually engaged in competition or in practice therefor with the permission of the ski area operator on any slope or trail or portion thereof designated by the ski area operator for the purpose of competition.

"§ 99C-2. Duties of ski operators and skiers.—(1) A ski area operator shall be responsible for the maintenance and safe operation of any passenger tramway in his ski area and insure that such is in conformity with the rules and regulations prescribed and adopted by the North Carolina Department of Labor pursuant to G.S. 95-120(1) as such appear in the North Carolina Administrative Procedures Act. The North Carolina Department of Labor shall conduct certifications and inspections of passenger tramways.

A ski area operator’s responsibility regarding passenger tramways shall include, but is not limited to, insuring operating personnel are adequately trained and are adequate in number; meeting all standards set forth for terminals, stations, line structures, and line equipment; meeting all rules and regulations regarding the safe operation and maintenance of all passenger lifts and tramways, including all necessary inspections and record keeping.

(2) A skier and/or a passenger shall have the following responsibilities:

(a) To know the range of his own abilities to negotiate any ski slope or trail and to ski within the limits of such ability;

(b) To maintain control of his speed and course at all times when skiing and to maintain a proper lookout so as to be able to avoid other skiers and visible objects;

(c) To stay clear of snow grooming equipment, all vehicles, lift towers, signs, and any other equipment on the ski slopes and trails;

(d) To heed all posted information and other warnings and to refrain from acting in a manner which may cause or contribute to the injury of the skier or others;

(e) To wear retention straps, ski brakes, or other devices to prevent runaway skis;

(f) Before beginning to ski from a stationary position or before entering a ski slope or trail from the side, to avoid moving skiers already on the ski slope or trail;

(g) To not move uphill on any passenger tramway or use any ski slope or trail while such person’s ability to do so is impaired by the consumption of alcohol or by the use of any narcotic or other drug or while such person is under the influence of alcohol or any narcotic or any drug;

(h) If involved in a collision with another skier or person, to not leave the vicinity of the collision before giving his name and current address to an employee of the ski area operator, a member of the ski patrol, or the other skier or person with whom the skier collided, except in those cases when medical treatment is required; in which case, said information shall be provided as soon as practical after the medical treatment has been obtained. If the other person involved in the collision is unknown, the skier shall leave the personal identification required by this subsection with the ski area operator;

(i) Not to embark upon or disembark from a passenger tramway except at an area that is designated for such purpose;

(j) Not to throw or expel any object from a passenger tramway;
(k) Not to perform any action that interferes with the operation or running of a passenger tramway;
(l) Not to use such tramway unless he has the ability to use it with reasonable safety;
(m) Not to engage willfully or negligently in any type conduct that contributes to or causes injury to another person or his properties;
(n) Not to embark upon a passenger tramway without the authority of the ski area operator.

(3) A ski area operator shall have the following responsibilities:
(a) To mark all trails and maintenance vehicles and to furnish such vehicles with flashing or rotating lights that shall be in operation whenever the vehicles are working or moving in the ski area;
(b) To mark with a visible sign or other warning implement the location of any hydrant or similar equipment that is used in snowmaking operations and located anywhere in the ski area;
(c) To indicate the relative degree of difficulty of a slope or trail by appropriate signs. Such signs are to be prominently displayed at the base of a slope where skiers embark on a passenger tramway serving the slope or trail, or at the top of a slope or trail. The signs must be of the type that have been approved by the National Ski Areas Association and are in current use by the industry;
(d) To post at or near the top of or entrance to, any designated slope or trail, signs giving reasonable notice of unusual conditions on the slope or trail;
(e) To provide adequate ski patrols;
(f) To mark clearly any hidden rock, hidden stump, or any other hidden hazard known by the ski area operator to exist;
(g) Not to engage willfully or negligently in any type conduct that contributes to or causes injury to another person or his properties.

"§ 99C-3. Negligence, civil actions.—A violation of any responsibility placed on the skier, passenger or ski area operator as set forth in G.S. 99C-2, to the extent such violation proximately causes injury to any person or damage to any property, shall constitute negligence on the part of the person violating the provisions of that section.

"§ 99C-4. Competition.—The ski area operator shall, prior to the beginning of a competition, allow each competitor a reasonable visual inspection of the course or area where the competition is to be held. The competitor shall be held to assume risk of all course conditions including, but not limited to, weather and snow conditions, course construction or layout, and obstacles which a visual inspection should have revealed. No liability shall attach to a ski area operator for injury or death of any competitor proximately caused by such assumed risk.

"§ 99C-5. Exception.—The operation of a passenger tramway shall not constitute the operation of a common carrier."

Sec. 3. This act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.
CHAPTER 940  Session Laws—1981

S. B. 510  CHAPTER 940

AN ACT TO PREVENT DISABILITY RETIREMENT FOR A DISABLING CONDITION WHICH EXISTED PRIOR TO MEMBERSHIP IN THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM, THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE UNIFORM JUDICIAL RETIREMENT SYSTEM AND THE LAW ENFORCEMENT OFFICERS' BENEFIT AND RETIREMENT FUND.

The General Assembly of North Carolina enacts:

Section 1. G.S. 128-27(c) and G.S. 135-5(c) are amended by adding the following language at the end of the first paragraph:

"Provided further, that the Medical Board shall not certify any member as disabled who:

(1) applies for disability retirement based upon a mental or physical incapacity which existed when the member first established membership in the system; or

(2) is in receipt of any payments on account of the same disability which existed when the member first established membership in the system.

The Board of Trustees shall require each employee upon enrolling in the retirement system to provide information on the membership application concerning any mental or physical incapacities existing at the time the member enrolls."

Sec. 2. G.S. 135-59 is amended by adding the following language at the end to read as follows:

"Provided further, that the Medical Board shall not certify any member as disabled who:

(1) applies for disability retirement based upon a mental or physical incapacity which existed when the member first established membership in the system; or

(2) is in receipt of any payments on account of the same disability which existed when the member first established membership in the system.

The Board of Trustees shall require each employee upon enrolling in the retirement system to provide information on the membership application concerning any mental or physical incapacities existing at the time the member enrolls."

Sec. 3. G.S. 143-166(y) is amended by adding the following language at the end of the fourth paragraph to read as follows:

"Provided, that the Medical Board shall not certify any member as disabled who:

(1) applies for disability retirement based upon a mental or physical incapacity which existed when the member first established membership in the system; or

(2) is in receipt of any payments on account of the same disability which existed when the member first established membership in the system.

The Board of Commissioners shall require each employee upon enrolling in the retirement fund to provide information on the membership application concerning any mental or physical incapacities existing at the time the member enrolls."

Sec. 4. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 10th day of July, 1981.

S. B. 685  

CHAPTER 941  

AN ACT TO REQUIRE CONSENT OF CERTAIN COUNTY BOARDS OF COMMISSIONERS BEFORE LAND IN THOSE COUNTIES MAY BE CONDEMNED OR ACQUIRED BY A UNIT OF LOCAL GOVERNMENT OUTSIDE THOSE COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 283, Session Laws of 1981, is amended by adding to the list of counties contained therein the following counties in the proper alphabetical order: Franklin, Warren, Vance, Granville, Person, and Caswell.

Sec. 2. Chapter 283, Session Laws of 1981, is further amended by adding a new section to read:

"Sec. 3.1. The provisions of Section 1 and 2 of this act shall not apply to land located in Warren, Vance, Granville, Person or Caswell Counties when the condemning or acquiring authority is an authority, board or commission established jointly by two or more municipalities or counties."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.

H. B. 1381  

CHAPTER 942  

AN ACT TO AUTHORIZE WATAUGA COUNTY TO PRIVATELY SELL OR LEASE REAL ESTATE OWNED, OR HEREAFTER OWNED BY IT, AS AN INDUSTRIAL PARK, OR FOR THE PURPOSE OF AN INDUSTRIAL DEVELOPMENT, AND AUTHORIZE ACQUISITION OF REAL PROPERTY FOR SUCH PURPOSE.

The General Assembly of North Carolina enacts:

Section 1. Watauga County is exempt from all provisions, restrictions and limitations as to methods and procedures required to effectuate leases or sales of real estate provided for in Article 12, Chapter 160A, of the General Statutes in connection with any lease or sale of real estate made by it, as an Industrial Park, or for industrial development.

Sec. 2. Watauga County is authorized to acquire, by purchase, devise, exchange, or gift, any real property or any interest in real property for the purpose of industrial development. The power of condemnation may not be used for such acquisition.

Sec. 3. (a) This act is effective with respect to purchase, sale or lease only if such purchase, sale or lease is given prior approval by a unanimous resolution of the Watauga Board of County Commissioners authorizing such purchase, lease or sale.

(b) Such lease or sale may be for cash or with deferred payments secured by a Purchase Money Deed of Trust. It is the intent that leases and sales may be negotiated and consummated without further formality other than the required resolution by the Watauga County Board of Commissioners on all terms as negotiated.

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(c) In purchasing any real property under the authority of Section 2 of this act, the taxing power of Watauga County is not and may not be pledged directly or indirectly to secure any moneys due to the seller or any other person but the county may otherwise acquire the property subject to any security interest, with the approval of the Local Government Commission.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.

H. B. 258   CHAPTER 943
AN ACT CREATING A COMMITTEE FOR A COMPREHENSIVE STUDY OF THE PROPERTY TAX SYSTEM IN NORTH CAROLINA.

Whereas, the property tax continues to provide a significant source of revenue to local governments in North Carolina; and

Whereas, sound and responsible government depends heavily on the proper administration and collection of taxes from existing tax revenue sources; and

Whereas, problems remain with the efficient administration and collection of property taxes, especially with collection of taxes on motor vehicles, household furnishings and personal effects, and administration of exemptions for the elderly and disabled; and

Whereas, G.S. 105-286 requires revaluation of the real property in each county at least once every eight years, resulting in many inequities among taxpayers that are magnified in periods of high inflation and can be remedied only through more frequent adjustment of appraised values; and

Whereas, current methods of conducting revaluations are expensive, thereby prohibiting more frequent revaluations; and

Whereas, a thorough study of all features of the property tax system is warranted in order to promote the fairest and most equitable property tax structure possible for all citizens of the State; and

Whereas, this study should provide a comprehensive approach to evaluating all aspects of the property tax base, including a review of the public policy justifications for all existing and proposed exemptions and preferential classifications; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is established a Property Tax System Study Committee. The Committee shall consist of 15 members. The President Pro Tempore shall appoint five members of the Senate, and the Speaker of the House shall appoint five members of the House of Representatives to serve on the Committee. The Governor shall appoint five citizens to serve on the Committee, one of whom is a county commissioner and one of whom is an elected official of a city or town. All appointments shall be made in time for the Committee to begin its work by September 15, 1981. The Speaker and President Pro Tempore of the Senate shall jointly call the first meeting to be held on a date no later than September 15, 1981.

Sec. 2. Upon its appointment, the Committee shall meet and elect from its membership a chairman and vice-chairman. Original members appointed to the Committee shall serve until the Committee makes its final report.
Vacancies on the Committee shall be filled in the same manner as the original appointments were made.

Sec. 3. The Committee shall make a detailed and comprehensive study of the efficiency, effectiveness and fairness of the property tax system in North Carolina. The Committee shall examine all classes of property that comprise the property tax base, all exemptions, exclusions and preferential classifications, and the valuation of public utility property to determine whether the property tax system is fair and equitable in taxing the citizens of the State. The Committee shall review current procedures for listing and collecting taxes on personal and real property to determine how to increase the efficiency and equity of these procedures. The Committee shall examine the octennial revaluation system and evaluate the feasibility of any programs that would aid the counties in conducting more frequent revaluations.

Sec. 4. On or before February 1, 1983, the Committee shall submit a final written report of its recommendations to the General Assembly by filing the report with the Speaker of the House and President Pro Tempore of the Senate. If legislation is recommended, the Committee shall submit appropriate bills with its report. The Committee, in its discretion, may submit an interim report to the 1982 Session of the 1981 General Assembly. The Committee shall terminate upon filing its final report.

Sec. 5. The Committee shall consult with tax officials in State and local government and may employ necessary professional and clerical assistance. The Committee is authorized to obtain assistance from the Department of Revenue and the Fiscal Research Division of the Legislative Services Commission.

Sec. 6. The Committee shall meet in the State Legislative Building.

Sec. 7. Members of the Committee shall be paid subsistence and travel allowances as follows:

(1) Committee members who are also General Assembly members - at the rate established in G.S. 120-3.1;

(2) Committee members who are also officials or employees of the State - at the rate established in G.S. 138-6;

(3) All other Committee members - at the rate established in G.S. 138-5.

Sec. 8. The expenses of the Committee shall be paid from funds collected by the Department of Revenue under Article 7, Chapter 105 of the General Statutes. The funds so expended shall be deducted as in G.S. 105-213(a) for the costs of administering the intangibles tax. Committee expenses shall be limited to a maximum of seventy-five thousand dollars ($75,000).

Sec. 9. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.
AN ACT TO INCLUDE FIREMEN FROM THE DIVISION OF FOREST RESOURCES WITHIN THE COVERAGE OF THE DEATH BENEFIT ACT.

Whereas, employees of the Division of Forest Resources are called upon to render the same hazardous public service to the people of this State as are firemen; but

Whereas, employees of the Division of Forest Resources are not now considered "firemen" for the purposes of inclusion in the Law Enforcement Officers', Firemen's, Rescue Squad Workers' and Civil Air Patrol Members' Death Benefit Act, and do not receive the same death benefit that firemen do; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-166.2(d) is amended by deleting the second sentence and by substituting the following: "The term 'firemen' shall mean both 'eligible firemen'; or 'fireman' as defined in G.S. 118-23 and all full-time, permanent part-time and temporary employees of the North Carolina Division of Forest Resources, Department of Natural Resources and Community Development, during the time they are actively engaged in fire fighting activities."

Sec. 2. G.S. 143-166.7 is amended by adding a new sentence at the end to read "The provisions of this Article shall apply with respect to full-time, permanent part-time and temporary employees of North Carolina Division of Forest Resources, Department of Natural Resources and Community Development, killed in line of duty on or after July 1, 1975."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.

AN ACT TO ENABLE THE STATE BOARD OF EDUCATION TO PAY LONGEVITY ADJUSTMENTS TO SCHOOL EMPLOYEES WHO RETIRED SINCE JULY 1, 1977, AND TO THOSE WHO WILL RETIRE PRIOR TO THE RATIFICATION OF THIS ACT.

The General Assembly of North Carolina enacts:

Section 1. The effective anniversary date for longevity pay for a public school employee of the State of North Carolina who had completed 25 or more years of State service on or before July 1, 1977, shall be July 1. Longevity payments for employees qualifying for the July 1 anniversary date shall be paid one month after the opening date of school. Longevity payments for retiring personnel shall be paid prior to the date of their retirement, and the payment for ten-month employees shall not be reduced because of the two months when schools are not in session. The State Board of Education shall amend its rules and regulations governing longevity pay to guarantee equal treatment to all public school employees. Employees with extra months and years of service to the State of North Carolina shall not be paid less than employees with fewer years of service to the State.

Sec. 2. The local administrative school units shall review the amount paid for longevity to their employees who have retired since July 1, 1977, and
who will retire prior to the ratification of this act, to ascertain the names of the retirees who are entitled to more pay under the provisions of this act and shall send the names of these retirees and the additional amount of longevity pay due each, with other information necessary to correct these inequities to the Controller of the State Board of Education and to the Teachers' and State Employees' Retirement System of North Carolina.

Sec. 3. The Controller shall pay the additional longevity pay amounts to those public school employees who have retired since July 1, 1977, and to those who will retire prior to the ratification of this act.

Sec. 4. Nothing herein contained shall be construed to obligate the General Assembly to make additional appropriations to implement the provisions of this act. All funds needed to implement this act shall be paid from current appropriations.

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.

H. B. 786 chapter 946

AN ACT TO ALLOW SPECIFIED SCHOOL EMPLOYEES TO BE PAID FOR UNUSED ANNUAL VACATION TIME.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-272(b)(2) is amended by rewriting the last sentence to read: "An employee shall be paid in a lump sum for accumulated annual leave not to exceed a maximum of 240 hours when separated from service due to resignation, dismissal, reduction in force, death, or service retirement. If the last day of terminal leave falls on the last workday in the month, payment shall be made for the remaining non-workdays in that month. Employees retiring on disability retirement may exhaust annual leave rather than be paid in a lump sum. The provisions of this subdivision shall be accomplished without additional State and local funds being appropriated for this purpose. The State Board of Education shall adopt rules and regulations for the administration of this subdivision."

Sec. 2. G.S. 115C-285(a)(2) is amended by rewriting the last sentence to read: "An employee shall be paid in a lump sum for accumulated annual leave not to exceed a maximum of 240 hours when separated from service due to resignation, dismissal, reduction in force, death, or service retirement. If the last day of terminal leave falls on the last workday in the month, payment shall be made for the remaining non-workdays in that month. Employees retiring on disability retirement may exhaust annual leave rather than be paid in a lump sum. The provisions of this subdivision shall be accomplished without additional State and local funds being appropriated for this purpose. The State Board of Education shall adopt rules and regulations for the administration of this subdivision."

Sec. 3. G.S. 115C-316(a)(4) is amended by rewriting the last sentence to read: "An employee shall be paid in a lump sum for accumulated annual leave not to exceed a maximum of 240 hours when separated from service due to resignation, dismissal, reduction in force, death, or service retirement. If the last day of terminal leave falls on the last workday in the month, payment shall be made for the remaining non-workdays in that month. Employees retiring on
disability retirement may exhaust annual leave rather than be paid in a lump sum. The provisions of this subdivision shall be accomplished without additional State and local funds being appropriated for this purpose. The State Board of Education shall adopt rules and regulations for the administration of this subdivision.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.

H. B. 787 CHAPTER 947
AN ACT TO CHANGE THE PRORATION RULE FOR LONGEVITY PAY FOR TEN-MONTH PUBLIC SCHOOL EMPLOYEES.
The General Assembly of North Carolina enacts:

Section 1. A new subsection is added to G.S. 115C-302 to read:
“(d) Longevity pay for ten-month employees is based on their annual salary and the longevity percentage may not be reduced by prorating the longevity pay for ten-month employees over a twelve month period.”

Sec. 2. A new subsection is added to G.S. 115C-316 to read:
“(c) Longevity pay for ten-month employees is based on their annual salary and the longevity percentage may not be reduced by prorating the longevity pay for ten-month employees over a twelve-month period.”

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.

H. B. 809 CHAPTER 948
AN ACT TO PROVIDE FUNDS FOR THE JUVENILE LAW STUDY COMMISSION.
The General Assembly of North Carolina enacts:

Section 1. The Juvenile Law Study Commission may be allocated up to ten thousand dollars ($10,000) from the Reserve for Contingency and Emergency for each year of the 1981-83 biennium to carry out the purpose of Article 58 of Chapter 7A of the General Statutes.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.

H. B. 838 CHAPTER 949
AN ACT TO ESTABLISH THE GROUND ABSORPTION SEWAGE TREATMENT AND DISPOSAL ACT OF 1981 AND TO AMEND THE RULE-MAKING AUTHORITY OF LOCAL BOARDS OF HEALTH.
The General Assembly of North Carolina enacts:

Section 1. G.S. 130-160 is repealed.
Sec. 2. Article 13C of Chapter 130 is repealed.
Sec. 3. Article 13C of Chapter 130 is replaced by the following:
“ARTICLE 13C.
“Ground Absorption Sewage Treatment and

"§ 130-166.22. Short title.—This Article shall be known and may be cited as the 'Ground Absorption Sewage Treatment and Disposal Act of 1981'.

"§ 130-166.23. Preamble.—The General Assembly finds and declares that continued installation, at a rapidly and constantly accelerating rate, of septic tanks and other types of ground absorption sewage treatment and disposal systems in a faulty or improper manner and in areas where unsuitable soil and population density adversely affect the efficiency and functioning of these systems, has a detrimental effect on the public health through contamination of land, ground water, and surface waters. Recognizing, however, that sewage can be rendered ecologically safe and the public health protected if such methods of sewage treatment and disposal are properly regulated and recognizing that ground absorption sewage treatment and disposal will continue to be necessary to meet the needs of an expanding population, the General Assembly intends hereby to insure the regulation of ground absorption sewage treatment and disposal systems so that such systems may continue to be used, where appropriate, without jeopardizing the public health.

"§ 130-166.24. Definitions.—As used herein, unless the context otherwise requires:

(1) 'Construction' means any work at the site of placement done for the purpose of preparing a residence, place of business or place of public assembly for initial occupancy, or subsequent additions thereto which increase sewage flow.

(2) 'Health department' means any county, city, district, consolidated city-county or other health department authorized to be organized under Chapter 130 of the General Statutes.

(3) 'Land sales business' means any business engaged in sales of land where a ground absorption sewage treatment and disposal system may be required, provided, however, that this definition shall not include sales of land upon which any residence, place of business, or place of public assembly is being or has been constructed and for which an Improvements Permit has been issued pursuant to G.S. 130-166.2.

(4) 'Location' means the initial placement for occupancy of a residence, place of business, or place of public assembly.

(5) 'Mobile home dealer' means every person or firm offering mobile homes for sale or lease within this State.

(6) 'Mobile home sales lot' means any place where two or more mobile homes are displayed and offered for sale or lease.

(7) 'Place of business' means any store, warehouse, manufacturing establishment, place of amusement or recreation, service station, office building, or any other place where people work.

(8) 'Place of public assembly' means any fairground, auditorium, stadium, church, campground, theatre, or any other place where people assemble.

(9) 'Public or community sewage system' means a single system of sewage collection, treatment, and disposal owned and operated by a sanitary district, a metropolitan sewage district, a water and sewer authority, a county or municipality or a public utility.

(10) 'Relocation' means the displacement of a residence or place of business from one site to another.
(11) 'Residence' means any private home, dwelling unit in a multiple family structure, hotel, motel, summer camp, labor work camp, mobile home, institution, or any other place where people reside.

(12) 'Septic tank system' means a ground absorption sewage treatment and disposal system consisting of a settling tank and a ground absorption field.

(13) 'Sewage' means and includes the liquid and solid human body waste, and liquids generated by domestic water-using fixtures and appliances, from any residence, place of business, or place of public assembly. For the purposes of this definition sewage shall not be construed to mean any industrial process wastewater or any other wastewater not considered to be domestic waste.

(14) 'Sanitary system of sewage treatment and disposal' means a complete system of sewage treatment and disposal including approved privies, septic tank systems, connection to public or community sewage systems, incinerators, mechanical toilets, composting toilets, recycling toilets, mechanical aeration systems or other such systems.

"§ 130-166.25. Sanitary sewage treatment and disposal; rules.—(a) Any person owning or controlling any single or multiple family residence, place of business, or place of public assembly shall provide a sanitary system of sewage treatment and disposal. Any such sanitary sewage treatment and disposal system consisting of approved privies, septic tank systems, incinerators, mechanical toilets, composting toilets, recycling toilets, or other such systems serving single or multiple family residences, places of business, or places of public assembly, the effluent from which is not discharged to the land surface or surface waters, shall be approved by the Department of Human Resources under rules and regulations adopted by the Commission for Health Services.

(b) In those cases where the design flow of sewage from residences, places of business, or places of public assembly exceeds 1,200 gallons per acre per day, septic tank systems shall not be used, provided that this subsection shall not apply to the installation of a single septic tank system serving a single family residence not to exceed four bedrooms, on a lot or tract of land: (1) which upon ratification of this act is specifically described in a deed, contract or other instrument conveying fee title or which is specifically described in a recorded plat and the lot or lots contiguous thereto have been conveyed by the subdivider so as to prevent enlargement of said lot or tract of land retained by the subdivider in order to satisfy this provision; and (2) which upon ratification of this act is of insufficient size to satisfy this provision; and (3) which, on the date system construction is proposed to begin, is not capable of being served by a public or community sewage system. However, if any two or more contiguous lots or tracts of land are under single ownership on January 1, 1982, they shall not be exempted if such lots or tracts of land under single ownership can be combined to meet this provision.

Any public or community sewage system and any system which discharges to the land surface or surface waters shall be approved by the Department of Natural Resources and Community Development under rules and regulations adopted by the Environmental Management Commission.

(c) Notwithstanding the provisions of subsection (a) of this section and the provisions of G.S. 130-17(b), any sanitary sewage treatment and disposal system subject to approval under rules and regulations of the Commission for Health Services shall be reviewed and approved under rules and regulations of a local board of health in the following circumstances:
(1) The local board of health, on its own motion, has requested the Department of Human Resources to review its proposed regulations concerning sanitary sewage treatment and disposal systems.

(2) The Department of Human Resources has found that the regulations of the local board of health concerning sanitary sewage treatment and disposal systems are more stringent, but not less stringent, than the Commission's regulations, and are sufficient to safeguard the public health.

(d) The Department of Human Resources from time to time, upon its own motion or upon the request of a local board of health or upon the request of a citizen of an affected county, may review its findings under subsection (c) of this section. Subject to such review, the Department of Human Resources' finding that local regulations meet the requirements of subsection (c) of this section shall be binding and conclusive.

(e) The relationship between State and local regulations concerning sanitary sewage treatment and disposal systems shall continue to be governed by G.S. 130-17(b) except in those cases where local regulations have been reviewed and approved pursuant to subsection (c) of this section.

(f) The Commission for Health Services rules and local board of health rules shall address at least the following: (1) sewage characteristics; (2) design unit; (3) design capacity; (4) design volume; (5) criteria for the design, installation, operation, maintenance and performance of sewage treatment and disposal systems; (6) soil morphology and drainage; (7) topography and landscape position; (8) depth to seasonally high water table, rock, and water impeding formations; (9) proximity to water supply wells, shellfish waters, estuaries, marshes, wetlands, areas subject to frequently flooding streams, lakes, swamps, and other bodies of surface or ground waters; (10) density of sewage treatment and disposal systems in a geographical area; and (11) such other factors as will affect the effective operation and performance of the ground absorption method of sewage treatment and disposal.

§ 130-166.26. **Improvements permit required.**—(a) No person shall commence the construction or relocation of any residence, place of business, or place of public assembly nor shall any person locate, relocate or cause to be located or to be relocated any residence other than one exhibited for sale or stored for the purpose of later sale on a site in an area not served by a system of sewage treatment and disposal subject to rules adopted by the Environmental Management Commission without first obtaining an Improvements Permit from the local health department having jurisdiction.

(b) The local health department shall issue an Improvements Permit authorizing work to proceed and the installation or repair of a sewage treatment and disposal system when it has determined after a field investigation that such a system can be installed in compliance with rules adopted by the Commission of Health Services and/or rules of the local board of health having jurisdiction.

§ 130-166.27. **Certificate of Completion.**—No sewage treatment and disposal system subject to Commission for Health Services rules or rules of the local board of health having jurisdiction which is attempted to be installed shall be covered or placed into use until the local health department determines that the system as installed is in compliance with the rules and regulations governing such installations. Upon determining that a sewage treatment and disposal system is properly installed, the local health department shall issue a
Certificate of Completion authorizing a residence, place of business, or place of public assembly to be occupied following construction, location, or relocation. Upon determining that an existing sewage treatment and disposal system is properly installed and operating satisfactorily in a mobile home park, the local health department shall issue a Certificate of Completion authorizing a residence to be located and occupied in a mobile home park. No person shall occupy a residence, place of business, place of public assembly, or mobile home in a mobile home park until a Certificate of Completion has been issued.

“§ 30-166.28. Improvements Permit or Certificate of Completion required before other permits to issue.—(a) Where construction, location or relocation is proposed to be done upon a residence, place of business, or place of public assembly, no permit required for electrical, plumbing, heating, air conditioning or other construction, location, or relocation activity under any provision of general or special law shall be issued until after an Improvements Permit has been issued.

(b) Where location or relocation is proposed for a mobile home in a mobile home park, no permit required for electrical, plumbing, heating, air conditioning, or other construction, location, or relocation activity under any provision of general or special law shall be issued until after a Certificate of Completion has been issued.

“§ 130-166.29. Limitation on electrical service.—It shall be unlawful for any person, partnership, firm, or corporation to allow permanent electrical service to a residence, place of business, or place of public assembly upon construction, location or relocation until the official electrical inspector with jurisdiction as provided in G.S. 143-143.2 certifies to the electrical supplier that the required Improvements Permit and Certificate of Completion have been issued. Temporary electrical service necessary for constructing a residence or place of business can be provided after an Improvements Permit has been issued.

“§ 130-166.30. Appeals procedure.—(a) Appeals concerning the interpretation and enforcement of rules adopted by the Commission for Health Services shall be governed by General Statutes Chapter 150A.

(b) Appeals concerning the interpretation and enforcement of rules adopted by a local board of health in accordance with G.S. 130-166.25(c) or G.S. 130-17(b) shall be governed by subsections (c) and (d) of this section.

(c) Any person who wishes to take an appeal concerning the interpretation and enforcement of rules adopted by the local board of health shall have a right of appeal to the local board of health, provided such appeal is taken within 15 days of the challenged action. Notice of appeal shall be given by filing with the local health director a demand for a hearing. Upon filing of such notice the local health director shall, within five working days, transmit to the board of health the papers and materials upon which the challenged action was taken.

The local board of health shall hold a hearing within 15 days of the receipt of the notice of appeal. The board shall give the appellant not less than five days' notice of the date, time and place of the hearing. Any party may appear in person or by agent or attorney. In considering appeals, the board shall have authority to affirm, modify or reverse the challenged action.

(d) Any person who wishes to contest a decision of the local board of health under subsection (c) of this section shall have a right of appeal to the district court having jurisdiction, if such appeal be made within 10 days after the date of the decision by the board.
“§ 130-166.31. Duties of land sales businesses and mobile home dealers.—Each land sales business and mobile home dealer shall be required to post conspicuously at the office of each land sales business or mobile home sales lot the following notice in exactly this language:

‘NOTICE: State law requires that the local health department determine the method and adequacy of sewage treatment and disposal before a residence or place of business is constructed or placed on the property.’

“§ 130-166.32. Penalties.—Any person who knowingly violates any provision of this Article shall be guilty of a misdemeanor.”

Sec. 4. G.S. 130-17(b) is amended by rewriting the first, second, and third sentences to read:

“The local boards of health shall adopt such rules, not inconsistent with law, as are necessary to protect and promote the public health. Where local rules regulate an area which is also regulated by rules of the Commission for Health Services or the Environmental Management Commission, the rules of the Commission for Health Services or the Environmental Management Commission shall prevail unless the local ground absorption sewage treatment and disposal rules are approved as provided by G.S. 130-166.25(c), or there is a local condition which in the opinion of the local board of health requires more stringent regulation in order to protect and promote the public health in which case the local board of health is directed to adopt such rules as are necessary to protect and promote the public health; provided, however, that North Carolina food-service sanitation regulations shall be uniform throughout the State except when there is a threat of food-borne illness.”

Sec. 5. The Director of the Budget shall transfer funds from within the Department of Human Resources or, if necessary, up to sixty thousand dollars ($60,000), including personnel, from the Department of Natural Resources and Community Development to the Department of Human Resources to implement this act.

Sec. 6. This act shall become effective January 1, 1982.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.

H. B. 1230  CHAPTER 950

AN ACT AUTHORIZING A STUDY OF THE STATE’S HOUSING PROGRAMS.

Whereas, the State has a number of persons who live in substandard housing; and

Whereas, the State has many programs aimed at reducing the number of persons who live in substandard housing and improving the housing of its citizens; and

Whereas, the federal housing programs in which the State participates are undergoing significant change; and

Whereas, the State is committed to improving the housing of its citizens; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is created the Commission to Study the Housing Programs in North Carolina. The study includes but is not limited to housing programs administered by the Departments of Administration, Commerce,
Insurance, and Natural Resources and Community Development and by the Housing Finance Agency in the Office of State Budget and Management.

Sec. 2. The Commission shall consist of 18 members, as follows: The Secretary of the Department of Natural Resources and Community Development shall serve ex officio, and the State Treasurer shall serve ex officio. The President of the Senate shall appoint five members, including two members of the Senate, one representative of the savings and loan business, one representative of the home building business, and one member with no housing industry ties. The Speaker of the House of Representatives shall appoint five members, including two members of the House of Representatives, one representative of the mortgage-servicing business, a licensed real estate broker, and one member with no housing industry ties. The Governor shall appoint six members, including a community planner, a representative of the subsidized housing management business, a specialist in public housing policy, a representative of the manufactured housing industry, and two members with no housing industry ties. Any vacancy shall be filled by the appointing authority who appointed the person causing the vacancy.

Sec. 3. The Commission shall meet initially at the call of the Secretary of Natural Resources and Community Development and shall elect from its membership a chairman and vice-chairman.

Sec. 4. The study shall include but is not limited to the following areas: the State's past, present and future housing policies; the effect of the State's housing programs on North Carolina's economy including the home-building industry, the supply of housing mortgage funds, and the cost of capital in the private sector; and the effectiveness of the State's housing programs in meeting the housing needs of its citizens including reducing the number of substandard housing units, increasing the number of standard units, and reducing the lifetime costs of housing and improving the safety of housing.

Sec. 5. The Commission shall submit a written report to the Governor and the 1983 General Assembly before February 1, 1983.

Sec. 6. Necessary professional and clerical assistance shall be provided by the Management Section in the Office of State Budget and Management. The Commission may hold its meetings in legislative buildings with prior approval from the Legislative Services Commission.

Sec. 7. Members of the Commission who are also members of the General Assembly shall be paid subsistence and travel expenses at the rate set forth in G.S. 120-3.1. Members of the Commission who are officials or employees of the State shall receive travel allowances at the rate set forth in G.S. 138-6. All other members of the Commission shall be paid the per diem and allowances at the rates set forth in G.S. 138-5.

Sec. 8. Actual expenses of the Commission, other than staff support from the Office of State Budget and Management, may be requested from the Contingency and Emergency Fund.

Sec. 9. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.
H. B. 1277                      CHAPTER 951

AN ACT TO PROVIDE FOR THE MERGER OF TWO CONTIGUOUS SANITARY DISTRICTS.

The General Assembly of North Carolina enacts:

Section 1. Article 12 of Chapter 130 of the General Statutes is amended by adding a new section to read:

"§ 130-156.5. Merger of two contiguous sanitary districts.—Two sanitary districts created under the provisions of this Article that are contiguous with each other may merge in the following manner:

(1) The board of commissioners of each sanitary district must first adopt a common proposed plan of merger of the two districts. The plan shall contain the name of the new or successor sanitary district, designate the members of the merging boards who shall serve as the interim board of commissioners for the new or successor district until the next election required by G.S. 130-126(b) and G.S. 163-279, and any other matters the two boards deem necessary and proper to complete the merger, including whether one district shall be the successor or an entirely new district is to be created.

(2) Such merger may become effective only if approved by the voters of the two sanitary districts. In order to call an election, both boards shall adopt a resolution calling upon the board of county commissioners in the county or counties in which the districts are located to call for an election on a date jointly named by the sanitary district boards after consultation with the appropriate boards of election and request said board of commissioners to call to be held on the said date an election within each sanitary district on the proposition of merger of the sanitary districts.

(3) If an election is called as provided in subdivision (2) above, the board(s) of elections shall provide ballots for such election in substantially the following form:

'☐ FOR The merger of the ________________ Sanitary District and the ________________ Sanitary District into a single district to be known as the ________________ Sanitary District, in which all the property, assets, liabilities, obligations and indebtedness of the two districts become the property, assets, liabilities, obligations, and indebtedness of the ________________ Sanitary District.

'☐ AGAINST The merger of the ________________ Sanitary District and the ________________ Sanitary District into a single district to be known as the ________________ Sanitary District, in which all of the property, assets, liabilities, obligations, and indebtedness of the two districts become the property, assets, liabilities, obligations, and indebtedness of the ________________ Sanitary District.'

(4) If at such election a majority of the registered voters of each sanitary district who shall vote thereon shall vote in favor of the merger the two sanitary districts shall be merged on July 1 following said election. Should the majority of the registered voters of either sanitary district vote against the proposition, then the merger authorized under this section shall not be effected.

The sanitary district boards may, however, adopt resolutions and call for election on similar propositions of merger at any time not less than one year from the date of the last election thereon.
(5a) If the majority of the registered voters who shall vote at said election of both sanitary districts vote in favor of said merger and a new district is to be created, the merger becomes effective at 12:00 noon on the following July 1, and at that time:

a. The two sanitary districts shall cease to exist as bodies politic and corporate, and the new sanitary district exists as a body politic and corporate.

b. All property, real and personal and mixed, belonging to the sanitary districts vests in, belongs to and is the property of the new sanitary district.

c. All judgments, liens, rights of liens and causes of action of any nature in favor of either sanitary district vest in and remain and inure to the benefit of the new sanitary district.

d. All rentals, taxes, assessments and any other funds, charges of fees owing either of the sanitary districts are owed to and may be collected by the new sanitary district.

e. Any action, suit, or proceeding pending against, or having been instituted by, either of the sanitary districts shall not be abated by its dissolution, but shall be continued and completed in the same manner as if dissolution had not occurred. The new sanitary district shall be a party to all these actions, suits and proceedings in the place and stead of the dissolved sanitary district and shall pay or cause to be paid any judgment rendered against either of the sanitary districts in any of these actions or proceedings. No new process need be served in any of the actions, suits or proceedings.

f. All obligations of either of the sanitary districts, including outstanding indebtedness, are assumed by the new sanitary district and all the obligations and outstanding indebtedness are constituted obligations and indebtedness of the new sanitary district. The full faith and credit of the new sanitary district is deemed to be pledged for the punctual payment of the principal of and interest on all general obligation bonds and bond anticipation notes of either of the sanitary districts, and all the taxable property within the new sanitary district shall be and remain subject to taxation for these payments.

g. All rules, regulations and policies of either of the sanitary districts shall continue in full force and effect until repealed or amended by the governing body of the new sanitary district.

(5b) If the majority of the registered voters who shall vote at said election of both sanitary districts vote in favor of said merger and one district is to be dissolved and the other district is to be a successor covering the territory of both, the merger becomes effective at 12:00 noon on the following July 1, and at that time:

a. One sanitary district shall cease to exist as a body politic and corporate, and the successor sanitary district continues to exist as a body politic and corporate.

b. All property, real and personal and mixed, belonging to the sanitary districts vests in, belongs to and is the property of the successor sanitary district.
c. All judgments, liens, rights of liens and causes of action of any nature in favor of either sanitary district vest in and remain and inure to the benefit of the successor sanitary district.

d. All rentals, taxes, assessments and any other funds, charges or fees owing either of the sanitary districts are owed to and may be collected by the successor sanitary district.

e. Any action, suit, or proceeding pending against, or having been instituted by, either of the sanitary districts shall not be abated by its dissolution, but shall be continued and completed in the same manner as if dissolution had not occurred. The successor sanitary district shall be a party to all these actions, suits and proceedings in the place and stead of the dissolved sanitary district and shall pay or cause to be paid any judgment rendered against the sanitary district in any of these actions or proceedings. No new process need be served in any of the actions, suits or proceedings.

f. All obligations of either of the sanitary districts, including outstanding indebtedness, are assumed by the successor sanitary district and all the obligations and outstanding indebtedness are constituted obligations and indebtedness of the successor sanitary district. The full faith and credit of the successor sanitary district is deemed to be pledged for the punctual payment of the principal of and interest on all general obligation bonds and bond anticipation notes of either of the sanitary districts, and all the taxable property within the successor sanitary district shall be and remain subject to taxation for these payments.

g. All rules, regulations and policies of either of the sanitary districts shall continue in full force and effect until repealed or amended by the governing body of the successor sanitary district.

(6) The board of county commissioners shall request the appropriate board of elections to hold and conduct the election. All qualified voters of the two sanitary districts shall be eligible to vote.

(7) Notice of the election shall be given as required in G.S. 163-33(8). The board of elections may, in its discretion, use either method of registration set out in G.S. 163-288.2 if it deems a special registration is desirable in the sanitary districts."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.

H. B. 1059

CHAPTER 952

AN ACT TO AMEND CHAPTER 143 OF THE GENERAL STATUTES OF NORTH CAROLINA TO CREATE THE NORTH CAROLINA MANUFACTURED HOUSING BOARD AND TO PROVIDE FOR THE LICENSING AND REGULATION OF THE MANUFACTURED HOUSING INDUSTRY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-144 through G.S. 143-151.5, presently constituted as Article 9A of G.S. Chapter 143 and entitled "Uniform Standards Code for Mobile Homes," are hereby redesignated as Part 2 of Article 9A, Chapter 143.
Sec. 2. Chapter 143 of the General Statutes of North Carolina is hereby amended by adding a new Part 1 of Article 9A to read as follows:

"ARTICLE 9A.

"Part 1.

"North Carolina Manufactured Housing Board.

"§ 143-143.8. Purpose.—The General Assembly finds that mobile homes have become a primary housing resource for many of the citizens of North Carolina. The General Assembly finds further that it is the responsibility of the mobile home industry to provide homes which are of reasonable quality and safety and to offer warranties to buyers that provide a means of remedying quality and safety defects in mobile homes. The General Assembly also finds that it is in the public interest to provide a means for enforcing such warranties.

Consistent with these findings and with the legislative intent to promote the general welfare and safety of mobile home residents in North Carolina, the General Assembly finds that the most efficient and economical way to assure safety, quality and responsibility is to require the licensing and bonding of all segments of the mobile home industry. The General Assembly also finds that it is reasonable and proper for the mobile home industry to cooperate with the Commissioner of Insurance, through the establishment of the North Carolina Manufactured Housing Board, to provide for a comprehensive framework for industry regulations.

"§ 143-143.9. Definitions.—The following words, terms and phrases, when used in this Article, shall have the meanings respectively ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) ‘Board’ means the North Carolina Manufactured Housing Board.

(2) ‘Commissioner’ means the Commissioner of Insurance of the State of North Carolina.

(3) ‘Department’ means the Department of Insurance of the State of North Carolina.

(4) ‘Manufactured home’ or ‘mobile home’ means a structure, transportable in one or more sections, which, in the travelling mode, is eight feet or more in width and is 40 feet or more in length, or when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein.

(5) ‘Person’ means any individual, natural persons, firm, partnership, association, corporation, legal representative or other recognized legal entity.

(6) ‘Manufactured home manufacturer’ or ‘manufacturer’ means any person, resident or nonresident, who manufactures or assembles manufactured homes for sale in North Carolina.

(7) ‘Manufactured home dealer’ or ‘dealer’ means any person engaged in the business of buying, selling or dealing in manufactured homes or offering or displaying manufactured homes for sale in North Carolina. Any person who buys, sells or deals in three or more manufactured homes in any 12-month period, or who offers or displays for sale three or more manufactured homes in any 12-month period shall be presumed to be a manufactured home dealer. The terms ‘selling’ and ‘sale’ include lease-purchase transactions. The term ‘manufactured home dealer’ does not include banks and finance companies that acquire manufactured homes as an incident to their regular business.
(8) 'Supplier' means the original producer of completed components, including refrigerators, stoves, hot water heaters, dishwashers, cabinets, air conditioners, heating units, and similar components, and materials such as floor coverings, panelling, siding, trusses and similar materials, which are furnished to a manufacturer or dealer for installation in the manufactured home prior to sale to a buyer.

(9) 'Buyer' means a person who purchases at retail from a dealer or manufacturer a manufactured home for personal use as a residence or other related use.

(10) 'Set-up' means the operations performed at the occupancy site which render a manufactured home fit for habitation. Such operations include, but are not limited to, transportation by a bona fide private or exempt carrier operating under the provisions of the Public Utilities Act, positioning, blocking, leveling, supporting, tying down, connecting utility systems, making minor adjustments, or assembling multiple or expandable units. Such operations do not include lawful transportation services performed by public utilities operating under certificates or permits issued by the North Carolina Utilities Commission.

(11) 'Set-up contractor' means a person who engages in the business of performing set-up operations for compensation in North Carolina.

(12) 'Substantial defect' means any substantial deficiency in or damage to materials or workmanship occurring in a manufactured home which has been reasonably maintained and cared for in normal use. The term also means any structural element, utility system or component part of the manufactured home which fails to comply with the Code.

(13) 'Code' means the appropriate standards adopted by the Commissioner and established by the Department of Housing and Urban Development pursuant to the Federal Mobile Home Construction and Safety Standards Act of 1974 for single family manufactured homes.

(14) 'Responsible party' means a manufacturer, dealer, supplier, or set-up contractor.

(15) 'Manufactured home salesman' or 'salesman' means any person employed as a salesman by a manufactured home dealer to sell manufactured homes to buyers.

§ 143-143.10. Manufactured Housing Board created; membership; terms; meetings.—(a) There is hereby created the North Carolina Manufactured Housing Board within the Department of Insurance. The Board shall be composed of nine members as follows:

1. The Commissioner of Insurance or his designee
2. A manufactured home manufacturer
3. A manufactured home dealer
4. A representative of the banking and finance business
5. A representative of the insurance industry
6. A manufactured home supplier
7. A set-up contractor
8. Two representatives of the general public.

The Commissioner of Insurance or his designee shall serve as Chairman of the Board. The Governor shall appoint to the Board the manufactured home manufacturer and the manufactured home dealer. The Speaker of the House of Representatives shall appoint the representative of the banking and finance industry and the representative of the insurance industry. The President Pro
Tempore of the Senate shall appoint the manufactured home supplier and set-up contractor. The Commissioner of Insurance shall appoint two representatives of the general public. Except for the representatives from the general public, each member of the Board shall be appointed by the appropriate appointing authority from a list of nominees submitted to the appropriate appointing authority by the Board of Directors of the North Carolina Manufactured Housing Institute. At least three nominations shall be submitted for each position on the Board. The members of the Board shall be residents of the State.

The members of the Board shall serve for terms of three years, to begin on October 1, 1981, except that those first appointed as the representative of the banking and finance business, the representative of the insurance business, the manufactured home supplier, and the set-up contractor shall serve for terms of one year. In the event of any vacancy, the appropriate appointing authority shall appoint a replacement to serve the remainder of the unexpired term. Such appointment shall be made in the same manner as provided for the original appointment. No member of the Board shall serve more than two consecutive, three-year terms.

The member of the Board representing the general public shall have no financial interest connected with the manufactured housing industry. No member of the Board shall participate in any proceeding before the Board involving that member's own business.

Each member of the Board, except the Commissioner of Insurance and any other State employee, shall receive per diem and allowances as provided with respect to occupational licensing boards by G.S. 93B-5. All per diem and travel expenses shall be paid exclusively out of the fees received by the Board as authorized by this Article. In no case shall any salary, expense, or other obligation of the Board be charged against the Treasury of the State of North Carolina. All moneys and receipts shall be kept in a special fund by and for the use of the Board for the exclusive purpose of carrying out the provisions of this Article.

(b) In accordance with the provisions of this Article, the North Carolina Manufactured Housing Board shall have the following powers and duties:

1. To issue licenses to manufacturers, dealers, salesmen and set-up contractors;
2. To require that an adequate bond or other security be posted by all licensees, except manufactured housing salesmen;
3. To receive and resolve complaints from buyers of manufactured homes and from persons in the manufactured housing industry; and
4. To promulgate rules in accordance with Chapter 150A of the General Statutes as are necessary to carry out the provisions of this Article.

§ 143-143.11. License required; application for license.—(a) It shall be unlawful for any manufactured home manufacturer, dealer, salesman or set-up contractor to engage in business as such in this State without first obtaining a license from the North Carolina Manufactured Housing Board, as provided in this Article.

(b) Application for such license shall be made to the Board at such time, in such form, and contain such information as the Board shall require, and shall be accompanied by the required fee established by the Board. Such fee shall not exceed twenty-five dollars ($25.00) for any license.
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(c) In such application, the Board shall require information relating to the matters set forth in G.S. 143-143.13 as grounds for refusal of a license, and information relating to other pertinent matters consistent with safeguarding the public interest. All such information shall be considered by the Board in determining the fitness of the applicant to engage in the business for which a license is sought.

(d) All licenses that are granted shall expire, unless sooner revoked or suspended, on June 30 of each year following the date of issue.

(e) Every registrant under this Chapter shall, on or before the first day of July of each year, obtain a renewal of a license for the ensuing year, by application, accompanied by the required fee; and upon failure to renew, his license shall automatically expire; but such license may be renewed at any time within one year upon payment of the prescribed renewal fee and upon evidence satisfactory to the Board that the applicant has not engaged in business as a manufactured home manufacturer, dealer, salesman or set-up contractor after receipt of notice of expiration and is otherwise eligible for registration under the provisions of this Chapter.

(f) Supplemental licenses shall be issued for each place of business, operated or proposed to be operated by the licensee, that is not contiguous to other premises for which a license is issued. The fee for a supplemental license shall be established by the Board and shall not exceed fifty dollars ($50.00), provided that no supplemental license shall be required for a place of business operated by a licensee that is used exclusively for storage.

(g) Notwithstanding the provisions of subsection (a), the Board may provide by rule that a manufactured home salesman will be allowed to engage in business during the time period after making application for a license but before such license is granted.

“§ 143-143.12. Bond required.—(a) A person licensed as a manufactured home salesman shall not be required to furnish a bond, but each applicant approved by the Board for license as a manufacturer, dealer, or set-up contractor shall furnish a corporate surety bond, cash bond or fixed value equivalent thereof in the following amounts:

(1) For a manufacturer, two thousand dollars ($2,000) per manufactured home manufactured in the prior license year, up to a maximum of fifty thousand dollars ($50,000). When no manufactured homes were produced in the prior year, the amount required shall be based on the estimated number of manufactured homes to be produced during the current year;

(2) For a dealer who buys, sells, or deals in manufactured homes and who has four or less places of business, the amount shall be twenty-five thousand dollars ($25,000);

(3) For a dealer who buys, sells, or deals in manufactured homes and who has more than four places of business, the amount shall be fifty thousand dollars ($50,000);

(4) For a set-up contractor, the amount shall be five thousand dollars ($5,000).

(b) A corporate surety bond shall be approved by the Board as to form and shall be conditioned upon the obligor faithfully conforming to and abiding by the provisions of this Article. A cash bond or fixed value equivalent thereof shall be approved by the Board as to form and terms of deposits in order to
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secure the ultimate beneficiaries of the bond. A corporate surety bond shall be for a one-year period, and a new bond or a proper continuation certificate shall be delivered to the Board at the beginning of each subsequent one-year period.

(c) Any buyer of a manufactured home who suffers any loss or damage by any act of a licensee that constitutes a violation of this Article shall have the right to institute an action to recover against such licensee and the surety.

(d) The Board is authorized to promulgate rules in accordance with Chapter 150A of the General Statutes consistent with this Article to assure satisfaction of claims.

"§ 143-143.13. Grounds denying, suspending or revoking license; civil penalty.—(a) A license may be denied, suspended or revoked by the Board on any one or more of the following grounds:

(1) material misstatement in application for license;
(2) failure to post an adequate corporate surety bond, cash bond or fixed value equivalent thereof;
(3) engaging in the business of manufactured home manufacturer, dealer, salesman or set-up contractor without first obtaining a license from the Board;
(4) failure to comply with the warranty service obligations and claims procedure established by this Article;
(5) failure to comply with the set-up and tie-down requirements established by this Article;
(6) misappropriation of funds belonging to the buyer of a manufactured home;
(7) use of unfair methods of competition or unfair or deceptive commercial acts or practices;
(8) failure to comply with any provision of this Article.

(b) In addition to the authority to deny, suspend or revoke a license under this Article, the Board shall also have the authority to impose a civil penalty upon any person, firm, or corporation violating the provisions of this Article. A civil penalty shall not exceed two hundred fifty dollars ($250.00) for each violation.

"§ 143-143.14. Notice and hearing.—The Board shall not suspend, revoke or deny a license, or refuse the renewal of a license, or impose a civil penalty, until a written notice of the complaint has been furnished to the licensee or applicant against whom the same is directed, and a hearing thereon has been held before the Board. At least 30 days' written notice of the time and place of the hearing shall be given to the licensee or applicant by certified mail to his last known address, as shown on the license or other record of information in possession of the Board. At any such hearing, the licensee or applicant shall have the right to be heard in person or through counsel. After the hearing, the Board shall have the power to deny, suspend, revoke or refuse to renew the license in question, or to impose a civil penalty for violation of the provisions of this Article. Immediate notice of any such action by the Board shall be given to the licensee or applicant in the same manner as provided herein for furnishing notice of the hearing.

"§ 143-143.15. Set-up and tie-down requirements.—(a) Manufactured homes shall be set up and anchored in accordance with the standards established by the Federal Mobile Home Construction and Safety Standards Act of 1974 for single family manufactured homes or the State of North Carolina 'Standards
for Installation of Mobile Homes' adopted by the Commissioner of Insurance, whichever is applicable.

(b) In the event that a manufactured home is insured against damage caused by windstorm and subsequently sustains windstorm damage of a nature that indicates the manufactured home was not anchored or tied down in the manner required by this section, the insurer issuing the homeowner's insurance policy on the manufactured home shall not be relieved from meeting the obligations specified in the insurance policy with respect to such damage on the basis that the mobile home was not properly anchored or tied down.

“§143-143.16. Warranties.—Each manufacturer, dealer and supplier of manufactured homes shall warrant each new manufactured home sold in this State and the set up of each such manufactured home in accordance with the warranty requirements prescribed by this section for a period of at least 12 months, measured from the date of delivery of the manufactured home to the buyer. The warranty requirements for each manufacturer, dealer, supplier and set-up contractor of manufactured homes are as follows:

(1) The manufacturer warrants that all structural elements, plumbing systems, heating, cooling and fuel burning systems, electrical systems, and any other components included by the manufacturer are manufactured and installed free from substantial defect.

(2) The dealer warrants:

(i) That any modifications or alterations made to the manufactured home by the dealer or authorized by the dealer are free from substantial defects. Alterations or modifications made by a dealer shall relieve the manufacturer of warranty responsibility as to the item altered or modified and any damage resulting therefrom.

(ii) That set-up operations performed by the dealer on the manufactured home are performed in compliance with applicable federal or State standards for the installation of manufactured homes.

(iii) That, during the course of set-up and transportation of the manufactured home performed by the dealer, substantial defects do not occur to the manufactured home.

(3) The supplier warrants that any warranties generally offered in the ordinary sale of his product to consumers shall be extended to buyers of manufactured homes. The manufacturer's warranty shall remain in effect notwithstanding the existence of a supplier's warranty.

(4) The set-up contractor warrants that set-up operations are performed in compliance with applicable Federal or State standards for the installation of manufactured homes, and that during the course of set-up operations performed on the manufactured home, substantial defects do not occur to the manufactured home.

“§143-143.17. Presenting claims for warranties and substantial defects.—(a) Whenever a claim for warranty service or about a substantial defect is made to a licensee, it shall be handled as provided by this Article. A record shall be made of the name and address of each claimant and the date, substance, and disposition of each claim about a substantial defect. The licensee may request that a claim be in writing, but must nevertheless record it as provided above, and may not delay service pending receipt of the written claim.

(b) When the licensee notified is not the responsible party, he shall in writing immediately notify the claimant of that fact, and shall also in writing

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immediately notify the responsible party of the claim. When a responsible party is asked to remedy defects, it may not fail to remedy those defects because another party may also be responsible. Nothing herein shall prevent such a party from obtaining compensation by way of contribution or subrogation from another responsible party in accordance with any other provision of law or contract.

(c) Within the time limits provided in this Article, the licensee shall either resolve the claim or determine that it is not justified. At any time a licensee determines that a claim for service is not justified in whole or in part he shall immediately notify the claimant in writing that the claim or part of the claim is rejected and why, and shall inform the claimant that he is entitled to complain to the Board, for which a complete mailing address shall be provided. Within five working days of its receipt of a complaint, the Board shall send a complete copy thereof to the Attorney General and to the Commissioner of Insurance.

"§ 143-143.18. Warranty service.—(a) When a service agreement exists between or among a manufacturer, dealer and supplier to provide warranty service, the agreement shall specify which party is to remedy warranty defects. Every such service agreement shall be in writing. Nothing contained in such an agreement shall relieve the responsible party, as provided by this Article, of responsibility to perform warranty service. However, any licensee undertaking by such agreement to perform the warranty service obligations of another shall thereby himself become responsible both to that other licensee and to the buyer for his failure adequately to perform as agreed.

(b) When no service agreement exists for warranty service, the responsible party as designated by the provisions of this Article is responsible for remedying the warranty defect.

(c) A substantial defect shall be remedied within 45 days of receipt of the written notification of the warranty claim, unless the claim is unreasonable or bona fide reasons exist for not remedying the defect within the 45-day period. The responsible party shall respond to the claimant in writing with a copy to the Board stating its reasons for not promptly remedying the defect and stating what further action is contemplated by the responsible party. Notwithstanding the foregoing provisions of this subsection, defects, which constitute an imminent safety hazard to life and health shall be remedied within five working days of receipt of the written notification of the warranty claim. An imminent safety hazard to life and health shall include but not be limited to (1) inadequate heating in freezing weather; (2) failure of sanitary facilities; (3) electrical shock, leaking gas; or (4) major structural failure. The Board may suspend this five-day time period in the event of widespread defects or damage resulting from adverse weather conditions or other natural catastrophes.

(d) When the personremedying the defect is not the responsible party as designated by the provisions of this Article, he shall be entitled to reasonable compensation paid to him by the responsible party. Conduct which coerces or requires a nonresponsible party to perform warranty service is a violation of this Article.

(e) Warranty service shall be performed at the site at which the mobile home is initially delivered to the buyer, except for components which can be removed for service without substantial expense or inconvenience to the buyer.
(f) Any dealer, manufacturer or supplier shall have the right to complain to the Board when warranty service obligations under this Article are not being enforced.

§ 143-143.19. Dealer alterations.—(a) No alteration or modification shall be made to a manufactured home by a dealer after shipment from the manufacturer's plant, unless such alteration or modification is authorized by this Article or the manufacturer. The dealer shall ensure that all authorized alterations and modifications are performed, if so required, by qualified persons as defined in subsection (d). An unauthorized alteration or modification performed by a manufactured home dealer or his agent or employee shall place primary warranty responsibility for the altered or modified item upon the dealer. If the manufacturer fulfills or is required to fulfill the warranty on the altered or modified item, he shall be entitled to recover damages in the amount of his cost and attorney's fee from the dealer.

(b) An unauthorized alteration or modification of a manufactured home by the owner or his agent shall relieve the manufacturer of responsibility to remedy defects caused by such alteration or modification. A statement to this effect, together with a warning specifying those alterations or modifications which should be performed only by qualified personnel in order to preserve warranty protection, shall be displayed clearly and conspicuously on the face of the warranty. Failure to display such statement shall result in warranty responsibility on the manufacturer.

(c) The Board is authorized to promulgate rules in accordance with Chapter 150A of the General Statutes which define the alterations or modifications which must be made by qualified personnel. The Board may require qualified personnel only for those alterations and modifications which could substantially impair the structural integrity or safety of the manufactured home.

(d) In order to be designated as a person qualified to alter or modify a manufactured home, a person must comply with State licensing or competency requirements in skills relevant to performing alterations or modifications on manufactured homes.

§ 143-143.20. Disclosure of manner used in determining length of manufactured homes.—In any advertisement or other communication regarding the length of a manufactured home, a manufacturer or dealer shall not include the coupling mechanism in describing the length of the home.

§ 143-143.21. Limitation on damages.—If the buyer fails to accept delivery of a manufactured home, the seller may retain actual damages according to the following terms:

1. If the manufactured home is in the seller's stock and is not specially ordered from the manufacturer for the buyer, the maximum retention shall be one hundred dollars ($100.00).

2. If the manufactured home is a single-wide unit and is specially ordered from the manufacturer for the buyer, the maximum retention shall be five hundred dollars ($500.00).

3. If the manufactured home is larger than a single-wide unit and is specially ordered for the buyer from the manufacturer, the maximum retention shall be one thousand dollars ($1,000).
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Nothing in this Article shall prevent the parties to a manufactured home sales contract from contracting for liquidated damages otherwise permitted by law.

“§143-143.22. Inspection of service records.— The Board is authorized to inspect the pertinent service records of a manufacturer, dealer, supplier or set-up contractor relating to a written warranty claim or complaint made to the Board against such manufacturer, dealer, supplier, or set-up contractor. Every licensee shall send to the Board upon request within 10 days a true copy of every document or record pertinent to any complaint or claim for service.

“§143-143.23. Other remedies not excluded.—Nothing in this Article nor any decision by the Board shall limit any right or remedy available to the buyer at common law or under any other statute, nor limit any power or duty of the Attorney General.”

Sec. 3. G.S. 20-288(e) is hereby amended by adding the following sentence at the end thereof:

“This subsection shall not apply to manufacturers of, or dealers in, mobile or manufactured homes who furnish a corporate surety bond, cash bond, or fixed value equivalent thereof, pursuant to G.S. 143-143.12.”

Sec. 4. If any provision of this act or the application thereof to any person or circumstances is held invalid by any court of competent jurisdiction, the invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 5. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 6. This act shall become effective July 1, 1982; provided, however, that the provisions of G.S. 143-143.10 contained in Section 2 of this act shall become effective upon ratification, to the end that the North Carolina Manufactured Housing Board may be appointed, conduct its organizational activities, and be prepared to implement the provisions of this act upon its effective date.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.

H. B. 1311  CHAPTER 953

AN ACT TO EXEMPT THE GENERAL ASSEMBLY FROM THE REQUIREMENT OF PURCHASING THROUGH THE DEPARTMENT OF ADMINISTRATION WHEN PURCHASING SUPPLIES, MATERIALS AND EQUIPMENT FOR LESS THAN FIVE THOUSAND DOLLARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-56 is amended by adding the following new sentence at the end of the first paragraph:

“Purchase through the Secretary of Administration shall not be mandatory for a purchase of supplies, materials or equipment for the General Assembly if the total expenditure is less than five thousand dollars ($5,000).”

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.
S. B. 596  CHAPTER 954

AN ACT TO MAKE UNIFORM QUALIFICATIONS FOR AND TO PROHIBIT CONFLICT OF INTERESTS BY ELECTION OFFICIALS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-30 is amended by deleting paragraphs two and three and inserting the following new language:

"No person shall be eligible to serve as a member of a county board of elections who holds any elective office under the government of the United States, or of the State of North Carolina or any political subdivision thereof.

No person who holds any office in a state, congressional district, county or precinct political party or organization, or who is a campaign manager or treasurer of any candidate or political party in a primary or election, shall be eligible to serve as a member of a county board of elections, provided however that the position of delegate to a political party convention shall not be considered an office for the purpose of this section.

No person shall be eligible to serve as a member of a county board of elections who is a candidate for nomination or election.

No person shall be eligible to serve as a member of a county board of elections who is the wife, husband, son, daughter, mother, father, sister, or brother of any candidate for nomination or election."

Sec. 2. G.S. 163-41(a) is amended by deleting the second and third paragraphs and inserting the following in lieu thereof:

"The term 'precinct official' shall mean registrars and judges appointed pursuant to G.S. 163-41, and all assistants appointed pursuant to G.S. 163-42, unless the context of a statute clearly indicates a more restrictive meaning.

No person shall be eligible to serve as a precinct official, as that term is defined above, who holds any elective office under the government of the United States, or of the State of North Carolina or any political subdivision thereof.

No person shall be eligible to serve as a precinct official who is a candidate for nomination or election.

No person shall be eligible to serve as a precinct official who holds any office in a state, congressional district, county, or precinct political party or political organization, or who is a manager or treasurer for any candidate or political party, provided however that the position of delegate to a political party convention shall not be considered an office for the purpose of this subsection."

Sec. 3. G.S. 163-42 is amended by deleting the third paragraph.

Sec. 4. G.S. 163-41(b) is amended by adding the following language immediately after the first paragraph:

"No person shall be eligible to serve as a special registration commissioner, who holds any elective office under the government of the United States, or of the State of North Carolina or any political subdivision thereof.

No person shall be eligible to serve as a special registration commissioner, who serves as chairman of any state, congressional district, county, or precinct political party or political organization.

No person shall be eligible to serve as a special registration commissioner who is a candidate for nomination or election.

No special registration commissioner who is the wife, husband, mother, father, son, daughter, brother or sister of any candidate for nomination or
election may serve as special registration commissioner during the period beginning when the person files a notice of candidacy or otherwise obtains ballot access and ending on the date of the primary if the candidate is on the primary ballot or ending on the day of the general election if the candidate is on the general election ballot. The county board of elections shall temporarily disqualify the special registration commissioner for that period and shall have authority to appoint a temporary substitute who is a member of the same political party, to serve until the special registration commissioner is no longer disqualified.

If the commissioner being temporarily replaced was appointed from a list of names which the board of elections was required to appoint one of, then the board of elections must appoint the temporary substitute from a list of two names submitted by the chairman of that political party.”

Sec. 5. G.S. 163-43 is amended by adding the following language immediately after the first paragraph:

“No person shall be eligible to serve as a ballot counter, who holds any elective office under the government of the United States, or of the State of North Carolina or any political subdivision thereof.

No person shall be eligible to serve as a ballot counter, who serves as chairman of a state, congressional district, county, or precinct political party or political organization.

No person who is the wife, husband, mother, father, son, daughter, brother or sister of any candidate for nomination or election may serve as ballot counter during any primary or election in which such candidate qualifies.

No person shall be eligible to serve as a ballot counter who is a candidate for nomination or election.”

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.

S. B. 603 CHAP T ER 955

AN ACT TO ALLOW PERSONAL REPRESENTATIVES IN THE PROBATE OF ESTATES TO USE VOUCHERS OR OTHER VERIFIED PROOF.

The General Assembly of North Carolina enacts:

Section 1. G.S. 28A-21-1 is amended by rewriting the second sentence to read:

“The personal representative or collector shall produce vouchers for all payments or verified proof for all payments in lieu of vouchers.”

Sec. 2. G.S. 28A-21-2(a) is amended by rewriting the fourth sentence to read:

“The personal representative or collector shall produce vouchers for all payments or verified proof for all payments in lieu of vouchers.”

Sec. 3. G.S. 33-39 is amended by rewriting the second sentence to read:

“The guardian shall produce vouchers for all payments or verified proof for all payments in lieu of vouchers.”
Sec. 4. G.S. 28A-1-1 is amended by inserting a new paragraph "(1)" to read:

"(1) 'Collector' means any person authorized to take possession, custody, or control of the personal property of the decedent for the purpose of executing the duties outlined in G.S. 28A-11-3."

G.S. 28A-1-1 is further amended by renumbering the existing paragraphs accordingly.

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.

H. B. 89  
CHAPTER 956
AN ACT TO REGULATE PRECIOUS METAL BUSINESSES.

Whereas, theft of all types of property, particularly theft of precious metals, has increased dramatically in North Carolina; and

Whereas, the value of such stolen property has increased due to inflation and specifically due to the fluctuation in gold and silver prices; and

Whereas, such stolen property can be quickly sold due to the demand for gold and silver in any form; and

Whereas, such property is easily converted into a nonrecognizable form by being melted down, thereby making identification of the stolen items impossible; and

Whereas, the positive identification of persons selling items made of precious metals, short term retention of such items by the purchaser, and regulation of precious metals businesses could enhance the possibility of identifying and recovering stolen property: Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Chapter 66, Commerce and Business, of the General Statutes of North Carolina is amended by adding a new Article to read as follows:

"ARTICLE 22.

"§ 66-126. Legislative finding.—The General Assembly finds and declares that precious metal businesses in North Carolina vitally affect the general economy of the State and the public interest and public welfare, and in the exercise of its police power, it is necessary to regulate such businesses, in order to prevent thefts, disposal of stolen property, and other abuses upon its citizens.

"§ 66-127. Definitions.—Unless the context clearly indicates otherwise, the following words and phrases shall have the following meanings:

(1) 'Dealer' means a person who engages in the business of purchasing precious metals from the public in the form of jewelry, flatware, silver services or other forms and holds himself out to the public by signs, advertising or other methods as engaging in such purchases including any independent contractor purchasing precious metals under any arrangement in any department store; provided, however, that permanently located retail merchants shall be exempted insofar as they make purchases directly from manufacturers or wholesalers of precious metals for their inventories. Provided further, a permanently located retail merchant who is primarily engaged in the business of purchasing or acquiring jewelry, secondhand furniture, antique furniture, objects of art, artifacts, nonprecious metal collector items, antiquities and other
used household furnishings or fixtures for resale to the public, and who purchases precious metals, articles or items from the public only incidentally to his main business, may be exempted as provided in G.S. 66-129 if his total purchases or acquisitions of precious metals from the public constituted ten percent (10%) or less in dollar volume of the total purchases or acquisitions in dollar volume made by such merchant for all such secondhand items or articles in the 12-month period next preceding the date of application for an exemption under G.S. 66-129.

(2) 'Local law enforcement agency' means:
   (i) The county police force; or
   (ii) The county sheriff's office in a county with no county police force for any business located outside the corporate limits of a municipality or inside the corporate limits of a municipality having no municipal police force. 'Local law enforcement agency' means the municipal police for any business located within the corporate limits of a municipality having a police force.

(3) 'Precious metal' means gold, silver, or platinum.
   (a) 'Gold' is defined as any item or article containing ten (10) karat of gold or more which may be in combination or alloy with any other metal.
   (b) 'Silver' is defined as any item or article containing 925 parts per thousand of silver which may be in combination or alloy with any nonprecious metal or which is marked 'sterling'.
   (c) 'Platinum' is defined as any item or article containing 900 parts per thousand or more of platinum which may be in combination or alloy with any metal.

For purposes of this Article, precious metal does not include coins, medals, medallions, tokens, numismatic items, art ingots, or art bars.

"§ 66-128. Permits required.—Except as provided in subsection (c), it shall be unlawful for any person to engage as a dealer in the business of purchasing precious metals either as a separate business or in connection with other business operations without first obtaining a permit for the business from the local law enforcement agency. The form of the permit and application therefor shall be as approved by the Department of Crime Control and Public Safety. The application shall be given under oath and shall be notarized. A 30-day waiting period from the date of filing of the application is required prior to initial issuance of a permit. A separate permit shall be issued for each location, place, or premises within the jurisdiction of the local law enforcement agency which is used for the conduct of a precious metals business, and each permit shall designate the location, place or premises to which it applies. Such business shall not be conducted in any other place than that designated in the permit, and no business shall be conducted in a mobile home, trailer, camper, or other vehicle, or structure not permanently affixed to the ground or in any room customarily used for lodging in any hotel, motel, tourist court, or tourist home as defined in G.S. 105-61. The permit shall be posted in a prominent place on the designated premises. Permits shall be valid for a period of 12 months from the date issued and may be renewed without a waiting period upon filing of an application and payment of the annual fee. The annual fee for each dealer's permits within each jurisdiction shall be ten dollars ($10.00) to provide for the administrative costs of the local law enforcement agency, including purchase of required forms. The fee shall not be refundable even if the permits are denied
or later suspended or revoked. Such permits shall be in addition to and not in lieu of other business licenses and are not transferable.

Any dealer applying to the local law enforcement agency for a permit shall furnish the local law enforcement agency with the following information:

(1) his full name, and any other names used by the applicant during the preceding five years. In the case of a partnership, association, or corporation, the applicant shall list any partnership, association, or corporate names used during the preceding five years;

(2) current address, and all addresses used by the applicant during the preceding five years;

(3) physical description;

(4) age;

(5) driver’s license number, if any, and state of issuance;

(6) recent photograph;

(7) record of felony convictions; and

(8) record of other convictions during the preceding five years.

If the applicant for a dealer’s permit is a partnership or association, all persons owning a ten percent (10%) or more interest in the partnership or association shall comply with the provisions of this subsection. Any such permits shall be issued in the name of the partnership or association.

If the applicant for a dealer’s permit is a corporation, each officer, director and stockholder owning ten percent (10%) or more of the corporation’s stock, of any class, shall comply with the provisions of this subsection. Any such permits shall be issued in the name of the corporation.

No permit shall be issued to an applicant who, within five years prior to the date of application, has been convicted of a felony involving a crime of moral turpitude, or larceny, or receiving stolen goods or of similar charges in any federal court or a court of this or any other state. In the case of a partnership, association, or corporation, no permit shall be issued to any applicant with an officer, partner, or director who has, within five years prior to the date of application, been convicted of a felony involving a crime of moral turpitude, or larceny, or receiving stolen goods or of similar charges in any federal court or a court of this or any other state.

(b) Every employee engaged in the precious metal business shall, within two days of being so engaged, register his name and address with the local law enforcement agency and have his photograph taken by the agency. The agency shall issue to him a certificate of compliance with this section upon the applicant’s payment of the sum of three dollars ($3.00) to the agency. The permit shall be posted in the work area of the permit holder.

(c) A special occasion permit authorizes the permittee to purchase precious metals as a dealer participating in any trade shows, antique shows, and craft shows conducted within the State. A special occasion permit shall be issued by any local law enforcement agency; provided, however, that a permittee under subsection (a) shall apply for a special occasion permit with the local law enforcement agency which issued such dealer’s permit. An application for a permit shall be on a form as approved by the Department of Crime Control and Public Safety and shall be given under oath and notarized. A 30-day waiting period from the date of filing of the application is required prior to initial issuance of a permit.
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Any dealer applying to a local law enforcement agency for a special occasion permit shall furnish the local law enforcement agency with the information required in an application for a dealer’s permit as set forth in (a).

If the applicant for a special occasion permit is a partnership or association, all persons owning a ten percent (10%) or more interest in the partnership or association shall comply with the provisions of this subsection. Any such permits shall be issued in the name of the partnership or association.

If the applicant for a special occasion permit is a corporation, each officer, director and stockholder owning ten percent (10%) or more of the corporation’s stock, of any class, shall comply with the provisions of this subsection. Any such permits shall be issued in the name of the corporation.

No permit shall be issued to an applicant who, within five years prior to the date of application, has been convicted of a felony involving a crime of moral turpitude, or larceny, or receiving stolen goods or of similar charges in any federal court or a court of this or any other state. In the case of a partnership, association, or corporation, no permit shall be issued to any applicant with an officer, partner, or director who has, within five years prior to the date of application, been convicted of a felony involving a crime of moral turpitude, or larceny, or receiving stolen goods or of similar charges in any federal court or a court of this or any other state.

The fee for an application for a special occasion permit shall be ten dollars ($10.00) to provide for the administrative cost of the local law enforcement agency including purchase of required forms. The fee shall not be refundable even if the permit is denied or is later suspended or revoked. Such permits shall be in addition to and not in lieu of other business licenses and are not transferable.

A special occasion permit shall be valid for 12 months from the date issued, unless earlier surrendered, suspended, or revoked. Application for renewal of a permit for an additional 12 months shall be on a form as approved by the Department of Crime Control and Public Safety and shall be accompanied by an application fee of ten dollars ($10.00). A renewal fee shall not be refundable.

Each special occasion permit shall be posted in a prominent place on the premises of any show at which the permittee purchases precious metals.

"§ 66-129. Exemption from permits.—Any merchant claiming an exemption from the requirements of G.S. 66-128, G.S. 66-131, and G.S. 66-133 due to the percentage of his total business which constitutes precious metals purchases shall file an application therefor with the local law enforcement agency at the same time as applications for dealers’ permits are required to be filed under the provisions of this act. The application shall be upon a form approved by the Department of Crime Control and Public Safety and shall contain as a minimum the following information; the name, home address and business address of the applicant; the name and location of the business at its permanent address; the primary nature of the business both as to purchases and sales; the total dollar volume of purchases of precious metals during the 12-month period next preceding the date of application; the total dollar volume of all secondhand goods purchased during the same period by the business; the percentage of precious metals purchases or acquisitions to total purchases or acquisitions of secondhand goods; and the date when the merchant commenced the business under which the exemption is claimed. Such application shall be filed under the same oath as is required for a precious metals dealer permit, shall be notarized,
and shall be accompanied by a fee of five dollars ($5.00), which fee shall be
retained by the local law enforcement agency as cost for administering claims
for exemptions.

The application for exemption, if granted, shall be valid for a period of 12
months. Thereafter, if the applicant seeks an exemption for the ensuing year he
shall file an application for exemption 30 days before the expiration of the prior
exemption.

If in any calendar month the percentage of precious metals purchased by an
exempted merchant exceeds ten percent (10%) of his total purchases, he shall
file notice thereof with the local law enforcement agency.

"§ 66-130. Perjury; punishment.—Any person who shall willfully commit
perjury in any application for a permit or exemption filed pursuant to this
Article shall be guilty of a misdemeanor.

"§ 66-131. Bond or trust account required.—Before any permit shall be issued
to a dealer pursuant to G.S. 66-128, the dealer shall execute a satisfactory cash
or surety bond or establish a trust account with a licensed and insured bank or
savings institution located in the State of North Carolina in the sum of ten
thousand dollars ($10,000). The bond or trust account shall be in favor of the
State of North Carolina. A surety bond is to be executed by the dealer and by
two responsible sureties or a surety company licensed to do business in the State
of North Carolina, and subject to the approval of the law enforcement agency.
Any bond shall be kept in full force and effect and shall be delivered to the law
enforcement agency which first issued a current permit to the dealer. A bond or
trust account shall be for the faithful performance of the requirements and
obligations of the dealer's business in conformity with this Article. Any law
enforcement agency shall have full power and authority to revoke the permit
and sue for forfeiture of the bond or trust account upon a breach thereof. Any
person who shall have suffered any loss or damage by any act of the permittee
that constitutes a violation of this Article shall have the right to institute an
action to recover against such permittee and the surety or trust account. Upon
termination of the bond or trust account the permit shall become void.

"§ 66-132. Records to be kept.—Every dealer to whom a permit has been
issued pursuant to G.S. 66-128 shall maintain a tightly bound book or books (not
loose-leaf), with pages numbered in sequence, in which shall be recorded, at the
time of any purchase of precious metal, a serially numbered account and
description of the specific items purchased, including, if applicable, the
manufacturer's name, the model, the model number, the serial number, and any
engraved numbers or initials found on the items, the date of the transaction,
and the name, sex, race, residence, telephone number and driver's license
number, if any, of the person selling the items purchased. Both the dealer and
the seller shall sign the record entry. In the event the seller cannot furnish his
driver's license, passport, or military identification card bearing his photograph,
the dealer shall require two forms of positive identification.

The record book shall be open at all reasonable times to inspection on the
premises by law enforcement agencies and shall not be destroyed until two years
following the last transaction which the record book reflects. A copy of each
record book entry shall be filed within 48 hours of the transaction in the office
of the local law enforcement agency. Mailing the required copy to the local law
enforcement agency within 48 hours shall constitute compliance with this
section.
The files of local law enforcement agencies which contain such copies of record book entries shall not be subject to inspection and examination as authorized by G.S. 132-6. Any public official or employee who shall knowingly and willfully permit any person to have access to or custody or possession of any portion of such files, unless the person is one specifically authorized by the local law enforcement agency to have access thereto for purposes of law enforcement investigation or civil or criminal proceedings, shall be guilty of a misdemeanor and upon conviction shall be fined in the discretion of the court but not in excess of five hundred dollars ($500.00).

Every merchant to whom an exemption has been issued pursuant to G.S. 66-129 shall maintain a book in which shall be recorded, at the time of any purchase of precious metal, a description of the specific items purchased and the date of the transaction. This book shall be open at all reasonable times to inspection on the premises by law enforcement agencies and shall not be destroyed until two years following the last transaction which the record book reflects.

"§ 66-133. Items not to be modified.—No item included in a dealer purchase shall be sold, traded or otherwise disposed of, melted, cut or otherwise changed in form nor shall any such item be removed from the licensed premises for a period of five days from the date the purchase was made.

"§ 66-134. Purchasing from juvenile.—No dealer or employee or agent thereof shall purchase from any juvenile under 18 years of age any article made, in whole or in part, of precious metal.

"§ 66-135. Penalties.—Any dealer who violates the provisions of this Article shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars ($500.00) or imprisoned for not more than six months, or both. In addition any dealer so convicted shall be ineligible for a dealer's permit for a period of three years from the date of conviction. Each and every violation shall constitute a separate and distinct offense.

"§ 66-136. Portable smelters prohibited.—It shall be unlawful for any person to possess or operate a smelter in any mobile home, trailer, camper, or other vehicle or structure not permanently affixed to the ground, for the purpose of refining precious metals. Violation of the provisions of this section shall constitute a misdemeanor and shall be punishable by a fine of not more than five hundred dollars ($500.00) or imprisoned for not more than six months, or both."

Sec. 2. If any provisions of this act or the application thereof to any person or circumstances are held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application and to this end the provisions of this act are declared to be severable.

Sec. 3. All general or local laws governing precious metals businesses in counties or towns are repealed.

Sec. 4. Local law enforcement agencies shall commence processing filed applications for permits and exemptions no later than August 1, 1981.

Sec. 5. This act shall become effective October 1, 1981, except for Section 4 which is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.
H. B. 970  

CHAPTER 957

AN ACT TO INCREASE THE MILEAGE DEDUCTION ALLOWED FOR AUTOMOBILE EXPENSES INCURRED IN PERFORMING CHARITABLE SERVICES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-147(15) and 105-147(16) are each amended by adding the following sentence at the end of the subdivision:

"A mileage rate equal to ninety percent (90%) of the mileage rate allowed by the Secretary of Revenue for business expenses shall be allowed as compensation for the cost of operating an automobile in connection with gratuitous services rendered to an organization listed in this subdivision."

Sec. 2. This act is effective for taxable years beginning on and after January 1, 1982.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.

H. B. 1064  

CHAPTER 958

AN ACT TO CODIFY THE COMMON LAW PROHIBITION AGAINST STRIKES BY PUBLIC EMPLOYEES.

The General Assembly of North Carolina enacts:

Section 1. Article 12 of Chapter 95 of the General Statutes is amended by adding the following new sections:

"§ 95-98.1. Strikes by public employees prohibited.—Strikes by public employees are hereby declared illegal and against the public policy of this State. No person holding a position either full- or part-time by appointment or employment with the State of North Carolina or in any county, city, town or other political subdivision of the State of North Carolina, or in any agency of any of them, shall willfully participate in a strike by public employees.

"§ 95-98.2. Strike defined.—The word 'strike' as used herein shall mean a cessation or deliberate slowing down of work by a combination of persons as a means of enforcing compliance with a demand upon the employer, but shall not include protected activity under Article 16 of this Chapter; Provided, however, that nothing herein shall limit or impair the right of any public employee to express or communicate a complaint or opinion on any matter related to the conditions of public employment so long as the same is not designed to and does not interfere with the full, faithful, and proper performance of the duties of employment."

Sec. 2. Severability. If any provision or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provisions or applications, and to this end the provisions of this act are severable.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.
AN ACT TO ESTABLISH PRIORITIES AND PROCEDURES FOR DISBURSEMENT OF FUNDS BY CLERKS OF COURT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-304(d) is rewritten to read:

"(d) In any criminal case in which the liability for costs, fines, restitution, or any other lawful charge has been finally determined, the clerk of superior court shall, unless otherwise ordered by the presiding judge, disburse such funds when paid in accordance with the following priorities:

(1) costs due the county;
(2) costs due the city;
(3) fines to the county school fund;
(4) sums in restitution prorated among the persons entitled thereto;
(5) costs due the State;
(6) attorney's fees.

Sums in restitution received by the clerk of superior court shall be disbursed when:

(1) complete restitution has been received; or
(2) when, in the opinion of the clerk, additional payments in restitution will not be collected; or
(3) upon the request of the person or persons entitled thereto; and
(4) in any event, at least once each calendar year."

Sec. 2. The provisions hereof shall also apply to all funds on deposit with the clerks of superior court on the effective date of this act.

Sec. 3. For purposes of determining the effect of the provisions of Section 1, the clerks of the superior court shall for one year submit quarterly reports to the Administrative Office of the Courts and to the Department of Crime Control and Public Safety concerning the amount of court costs and fines ordered and the amount of restitution ordered, scheduled to be collected, collected, and disbursed, either through prepayment or partial payment (distinguishing between supervised and unsupervised probation) during the quarter. Such reports shall be submitted by the tenth working day following the quarters ending September 30 and December 31, 1981, and March 31 and June 30, 1982. Forms for the transcribing and reporting of this information shall be prepared and distributed by the Department of Crime Control and Public Safety in accordance with procedures approved by the Administrative Office of the Courts.

Sec. 4. This act shall become effective August 1, 1981, and applies to sums disbursed on and after that date.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.
H. B. 629     CHAPTER 960

AN ACT TO ALLOW NEW HANOVER COUNTY TO PROHIBIT ACTS OF DISCRIMINATION IN EMPLOYMENT AND HOUSING BASED ON RACE, COLOR, NATIONAL ORIGIN, RELIGION, SEX, HANDICAP OR AGE.

The General Assembly of North Carolina enacts:

Section 1. Authority to Adopt Ordinances. The Board of Commissioners of New Hanover County may adopt ordinances to prohibit discrimination in employment and housing based on race, color, national origin, religion, sex, handicap or attained age between 40 and 70 years, inclusive. To assist in the enforcement of these ordinances, the Board of Commissioners may authorize or create an agency or commission of the County of New Hanover (hereafter called "The Agency") to take such actions and to have such powers as might be appropriate and necessary to implement said ordinances including, but not limited to, the power to receive, initiate, investigate, seek to conciliate, hold hearings on and pass upon complaints, to mediate alleged violations of such ordinances, to issue orders against persons it finds, after notice and hearing, to have violated such ordinances and to seek court enforcement of such orders.

This legislation is not intended to expand the authority or powers of the local enforcing agency beyond those covering any specific employer by federal laws, rules or regulations in effect at the time in question. The agency may, as part of such order, require any such person to cease and desist from unlawful practices and to engage in such additional remedial action as may be appropriate including, but not limited to, requiring such person to do the following:

(a) to hire, reinstate or upgrade aggrieved individuals, with or without back pay;
(b) to admit aggrieved individuals or to allow such individuals to participate in guidance programs, apprenticeship training programs, on-the-job training programs, or other occupational training or retraining programs, and to utilize objective criteria in the admission of such individuals in such programs;
(c) to submit to the agency for approval or disapproval, plans to eliminate or reduce imbalance with respect to race, color, national origin, religion, sex, handicap, or age;
(d) to provide technical assistance to persons subject to this act to further compliance with the act;
(e) to report as to the manner of compliance;
(f) to post notices in conspicuous places in the form prescribed by the agency.

Sec. 2. Definition of "Person". As used in this act, the word "Person" includes one or more individuals, governments, governmental agencies, political subdivisions, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations (except a bona fide private membership club, other than a labor organization which is exempt from taxation under 501(c) of the Internal Revenue Code of 1954), trustees, trustees-in-bankruptcy, or receivers.

Sec. 3. Judicial Review of Agency Orders. Judicial review of agency orders shall be in accordance with Article 4 of Chapter 150A of the North Carolina General Statutes provided, however, that the provisions of G.S.
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150A-45 notwithstanding, petitions for judicial review shall be filed in the Superior Court of New Hanover County. The term "Agency", whenever used in Article 4 of the Chapter 150A of the North Carolina General Statutes, shall mean the agency as authorized or created by the Board of Commissioners of New Hanover County under the authority of this act.

Sec. 4. Enforcement of Agency Orders. (a) If within 60 days after entry of an order of the agency, a respondent has neither complied with nor sought review of such order, any aggrieved person or the agency may apply to the Superior Court of New Hanover County for an order of the court enforcing the order of the Agency.

(b) Within 30 days after the court's receipt of the petition for enforcement of the agency's order or within such additional time as the court may allow, the agency shall transmit to the court the original or a certified copy of the entire record of the proceedings leading to the order. With the permission of the court, the record may be shortened by stipulation of all parties. Any party unreasonably refusing to stipulate to limit the record may be taxed by the court for such additional costs as may be occasioned by the refusal. The court may require or permit subsequent corrections or additions to the record when deemed desirable.

(c) The hearing on the petition for enforcement of the agency's order shall be conducted by the court without a jury. The court shall hear oral arguments and receive written briefs, but shall take no evidence not offered at the agency hearing; except that in cases of alleged irregularities in procedure before the agency not shown in the record, testimony thereon may be taken by the court; and except that where no record was made of the proceeding or the record is inadequate, the judge in his discretion may hear all or part of the matter de novo.

(d) The court shall issue the order requiring compliance with the agency's order unless it finds that enforcement of the agency's order would prejudice substantial rights of the party against whom the order is sought to be enforced because the agency's findings, inferences, conclusions, or decisions are:

1. in violation of constitutional provisions; or
2. in excess of the statutory authority or jurisdiction of the agency; or
3. made upon unlawful procedure; or
4. affected by other error of law; or
5. unsupported by substantial evidence in view of the entire record as submitted; or
6. arbitrary or capricious.

(e) If the court declines to enforce the agency's order for one of the reasons specified in paragraph (d) of this section, it shall either:

1. dismiss the petition; or
2. modify the agency's order and enforce it as modified; or
3. remand the case to the agency for further proceedings.

(f) Any party to the hearing on the petition for enforcement of the agency's order may appeal the court's decision to the appellate division under the rules of procedure applicable to other civil cases.

Sec. 5. (a) Civil Action for Unlawful Employment or Housing Practice. An ordinance adopted pursuant to this act may permit any complainant dissatisfied with the agency's final disposition of a matter to bring a civil action in the Superior Court Division of the General Court of Justice of New Hanover
County against the person allegedly engaging in the unlawful practice. Such civil action for an unlawful employment or housing practice may not be brought more than one year after a charge thereof was filed with the agency or more than 60 days after the complainant's receipt of notification of the agency’s final disposition of the matter, whichever is later.

(b) Injunctions; Equitable Relief. If the court finds that the respondent has engaged in or is engaging in an unlawful employment or housing practice charged in the complaint, the court may enjoin the respondent from engaging in such unlawful employment or housing practice, and order such action as may be appropriate, which may include, but is not limited to, reinstatement or hiring of employees, with or without back pay (payable by the person, firm, corporation or association as the case may be, responsible for the unlawful employment practice), or any other equitable relief as the court deems appropriate. Back pay liability shall not accrue from a date more than two years prior to the filing of a charge with the agency. Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay otherwise allowable. No order of the court shall require the admission or reinstatement of an individual as a member of a union, or the hiring, reinstatement, or promotion of an individual as an employee, or the payment to him of any back pay, if such individual was refused admission, suspended, or expelled, or was refused employment or advancement or was suspended or discharged for any reason other than discrimination on account of race, color, religion, sex, national origin, handicap or age or in violation of an ordinance adopted pursuant to this act.

(c) Attorney's Fee. In any action or proceeding under an ordinance adopted pursuant to this act, the court, in its discretion, may allow the prevailing party, other than the agency, a reasonable attorney's fee as part of the costs, and the agency shall be liable for costs the same as a private person.

Sec. 6. Discrimination on Account of Opposition to Unlawful Practices or Participation in Investigation, Proceeding, or Hearing. It shall be an unlawful employment practice for an employer to discriminate against any of his employees or applicants for employment, to discriminate against any individual, or for a labor organization to discriminate against any member thereof or applicant for membership, because he has opposed any practice made an unlawful employment practice by an ordinance adopted pursuant to this act or because he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding or hearing under such an ordinance.

Sec. 7. Additional Authority of Agency. To further assist in enforcement of ordinances authorized by this section, and in the investigations of violations of said ordinances, the agency may subpoena witnesses, administer oaths, and compel the production of evidence. If a person fails or refusal to obey a subpoena issued by the agency, the agency may apply to the General Court of Justice for an order requiring that its order be obeyed, and the court shall have jurisdiction to issue such orders after notice to all proper parties. No testimony of any witness before the agency pursuant to a subpoena issued in exercise of the power conferred by this section may be used against him on the trial of any criminal action other than a prosecution for false swearing committed on the examination. If any person, while under oath administered pursuant to this paragraph willfully swears falsely, he is guilty of a misdemeanor.
Sec. 8. Access to Records. The agency at all reasonable times, for the purposes of examination, shall have access to, and the right to copy, any evidence of any person being investigated that relates to an unlawful employment or housing practice under an ordinance adopted pursuant to the act and relevant to the charge under investigation. Information discovered during such an investigation shall not be made public by the agency until offered into evidence in an administrative hearing or judicial proceeding.

Sec. 9. Public Records. Public records concerning the investigation, conciliation or mediation of alleged violations of an ordinance enacted pursuant to this section are not subject to the provisions of G.S. 132-6 and G.S. 132-9.

Sec. 10. Chapter 315, Session laws of 1979 is repealed.

Sec. 11. This act is effective July 31, 1981.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.

H. B. 750  CHAPTER 961
AN ACT TO AMEND G.S. 143B-153 TO REQUIRE THE SOCIAL SERVICES COMMISSION TO ESTABLISH STANDARDS AND ADOPT RULES AND REGULATIONS FOR PAYMENT OF STATE FUNDS TO PRIVATE CHILD-CARING INSTITUTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-153(2)b., as the same appears in Volume 3C of the General Statutes, is hereby amended by deleting from line 5 thereof the word “and”.

Sec. 2. G.S. 143B-153(2)c., as the same appears in Volume 3C of the General Statutes, is hereby amended by deleting the period at the end thereof and substituting therefor a semicolon and the word “and”.

Sec. 3. G.S. 143B-153(2), as the same appears in Volume 3C of the General Statutes, is hereby amended by adding the following subdivision at the end thereof:

“d. For the payment of grants-in-aid and other State funds to private child-caring institutions. The payment and distribution of grants-in-aid funds to private child-caring institutions shall be regulated by the grant-in-aid (GIA) formula. This formula and any modifications of this formula shall be approved by the Advisory Budget Commission prior to its implementation.”

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.
H. B. 1214  
CHAPTER 962  
AN ACT TO AMEND THE LAWS REGULATING BINGO AND RAFFLES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-292.1(b) is amended by adding a new subdivision (4) to read:

“(4) ‘Local law enforcement agency’ means:
(i) the county police force; or
(ii) the county sheriff’s office in a county with no county police force
for any raffle or bingo game conducted outside the corporate limits of a municipality or inside the corporate limits of a municipality having no municipal police force. ‘Local law enforcement agency’ means the municipal police for any raffle or bingo game conducted within the corporate limits of a municipality having a police force.”

Sec. 2. G.S. 14-292.1(d) is amended by rewriting the first sentence to read:

“(d) The exempt organization may expend proceeds derived from a raffle or bingo game only for auditing expenses, prizes, utilities and the purchase of supplies and equipment used in conducting the raffle and in playing bingo, taxes related to raffles and bingo, and the payment of compensation and rent as authorized by subsection (e) of this section. In no event shall the price for purchase of supplies and equipment exceed the fair market value thereof.”

Sec. 3. G.S. 14-292.1(e) is amended by rewriting the second and third sentences to read:

“An exempt organization shall not contract with any person for the purpose of conducting a raffle or bingo game except that an exempt organization may rent space under a written lease agreement for such purpose at a fixed sum not to exceed fair market value. Such leases shall be at a fixed rate not subject to change during the term of the lease and not based on a percentage of receipts or proceeds.”

Sec. 4. G.S. 14-292.1(h) is amended by deleting the words “sheriff of the county in which” and inserting in lieu thereof: “local law enforcement agency in whose jurisdiction”.

Sec. 5. G.S. 14-292.1(i) is amended by rewriting the fourth and fifth sentences to read:

“An audit of the account shall be prepared annually for the period July 1 to June 30 by a public accountant and shall be filed with the local law enforcement agency in whose jurisdiction the raffle or bingo game is conducted. The audit shall be prepared on a form approved by the Department of Justice and shall include the following information:

(1) the number of raffles or bingo games conducted or sponsored by the exempt organization;
(2) the location and date at which each raffle or bingo game was conducted and the prize awarded;
(3) the gross receipts of each raffle or bingo game;
(4) the cost or amount of any prize given at each raffle or bingo game;
(5) the amount paid in prizes at each session;
(6) the net return to the exempt organization; and
(7) the disbursements from the separate account and the purpose of those
   disbursements, including the date of each transaction and the name and
   address of each payee.
Quarterly statements prepared by the special committee which contain an
itemized listing of all expenditures and receipts shall also be filed with the local
law enforcement agency together with copies of any leases for rental of space.
Any person who shall willfully furnish, supply, or otherwise give false
information in any audit or quarterly statement filed pursuant to this section
shall be guilty of a misdemeanor.”

Sec. 6. This act shall become effective October 1, 1981.
In the General Assembly read three times and ratified, this the 10th day of
July, 1981.

S. B. 157  CHAPTER 963
AN ACT TO CONTINUE IN EFFECT CHAPTER 1298 OF THE 1977
SESSION LAWS RELATIVE TO THE DESIGNATION OF FUNDS TO
POLITICAL PARTIES BY INDIVIDUAL TAXPAYERS.
The General Assembly of North Carolina enacts:
Section 1. Section 3 of Chapter 1298 of the 1977 Session Laws, Second
Session 1978, is amended by substituting a period for the comma following the
date “January 1, 1978” therein, and by deleting the remainder of Section 3,
which reads “and shall expire on December 31, 1981.”
Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 10th day of
July, 1981.

H. B. 42  CHAPTER 964
AN ACT TO AUTHORIZE ADDITIONAL JUDICIAL OFFICIALS
THROUGHOUT THE STATE, TO INCREASE LEGAL COUNSEL FEES
AND TO PROVIDE FOR OTHER RELATED MATTERS.
The General Assembly of North Carolina enacts:
Section 1. Effective September 1, 1981, G.S. 7A-41 is amended in the
first sentence by deleting the number “33” and substituting “34”.
Sec. 2. (a) G.S. 7A-41 is further amended in the Table so that the
number of resident superior court judges and the total number of full-time
assistant district attorneys for the indicated judicial districts read:

<table>
<thead>
<tr>
<th>Judicial District</th>
<th>No. of Resident Judges</th>
<th>No. of Full-Time Asst. District Attorneys</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1</td>
<td>5</td>
</tr>
<tr>
<td>4</td>
<td>2</td>
<td>8</td>
</tr>
<tr>
<td>7</td>
<td>2</td>
<td>7</td>
</tr>
<tr>
<td>8</td>
<td>2</td>
<td>8</td>
</tr>
<tr>
<td>9</td>
<td>1</td>
<td>5</td>
</tr>
<tr>
<td>10</td>
<td>4</td>
<td>15</td>
</tr>
<tr>
<td>13</td>
<td>1</td>
<td>5</td>
</tr>
<tr>
<td>19A</td>
<td>2</td>
<td>5</td>
</tr>
<tr>
<td>21</td>
<td>3</td>
<td>9</td>
</tr>
</tbody>
</table>
(b) Effective September 1, 1981, G.S. 7A-41 is further amended by deleting all reference to the Seventeenth Judicial District and by substituting the following:

<table>
<thead>
<tr>
<th>Judicial District</th>
<th>Counties</th>
<th>No. of Resident Judges</th>
<th>No. of Full-Time Asst. District Attorneys</th>
</tr>
</thead>
<tbody>
<tr>
<td>17A</td>
<td>Caswell</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>Rockingham</td>
<td></td>
<td></td>
</tr>
<tr>
<td>17B</td>
<td>Stokes</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>Surry</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

All positions authorized by this act for Judicial Districts 17A and 17B are effective September 1, 1981.

Effective September 1, 1981, the current resident superior court judge assigned to the Seventeenth Judicial District is allocated to Judicial District 17B. The additional resident superior court judge authorized by this subsection for Judicial District 17A shall be appointed by the Governor pursuant to subsection (d) of this section.

Effective September 1, 1981, two of the four current assistant district attorneys allocated to the district attorney in the Seventeenth Judicial/Prosecutorial District are allocated to the district attorney in Judicial/Prosecutorial District 17A and the remaining two to the district attorney in Judicial/Prosecutorial District 17B.

(c)(1) G.S. 7A-60(a) is amended by inserting at the end of the first sentence, before the period, the phrase "except as provided in this section".

(c)(2) G.S. 7A-60 is amended by adding a new paragraph to the end to read:

"Effective October 1, 1981, the third prosecutorial district is divided into two prosecutorial districts, to be known as Prosecutorial Districts 3A and 3B. District 3A shall consist of Pitt County, and District 3B shall consist of Craven, Carteret and Pamlico Counties. The current district attorney of the third prosecutorial district shall become the district attorney for Prosecutorial District 3A. The Governor shall appoint a district attorney for Prosecutorial District 3B. The appointee shall serve until January 1, 1983, and his successor shall be chosen in the general election of November 1982, to serve a four-year term beginning January 1, 1983."

(c)(3) Effective October 1, 1981, G.S. 7A-69 is amended in the first sentence by deleting the phrase "third," and by substituting the following: "third-B."

(c)(4) Effective October 1, 1981, the current assistant district attorneys, the administrative assistant, the investigatory assistant and the two secretaries allocated to the district attorney's office in the third prosecutorial district shall be allocated as follows: the administrative assistant, one secretary and four of the assistant district attorneys to Prosecutorial District 3A and the remaining four assistant district attorneys, the investigatory assistant and one secretary to 3B.

(d) The vacancies in the judgeships authorized by this section shall be filled by appointments by the Governor. The appointees shall serve until the first day of January, 1983. The appointees' successors shall be chosen in the general election of November 1982, to serve an eight-year term beginning the first day of January, 1983.
Sec. 3. G.S. 7A-60 is amended by adding a new paragraph to the end to read:

"Effective September 1, 1981, the Seventeenth Prosecutorial District is divided into two prosecutorial districts, to be known as Prosecutorial Districts 17A and 17B. District 17A shall consist of Caswell and Rockingham Counties, and District 17B shall consist of Stokes and Surry Counties. The current district attorney of the Seventeenth Prosecutorial District shall become the district attorney for Prosecutorial District 17B. A new district attorney position is created by this act for Prosecutorial District 17A and shall be filled by appointment by the Governor. The appointee shall serve until January 1, 1983, and his successor shall be chosen in the general election of November, 1982, to serve a four-year term beginning January 1, 1983."

Sec. 4. (a) G.S. 7A-133 is amended in that Table so that the number of district court judges and the quota of magistrates for the indicated judicial districts and counties read:

<table>
<thead>
<tr>
<th>District</th>
<th>Judges</th>
<th>County</th>
<th>Min.-Max.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>3</td>
<td>Dare</td>
<td>2-4</td>
</tr>
<tr>
<td>9</td>
<td>4</td>
<td>Vance</td>
<td>3-5</td>
</tr>
<tr>
<td>10</td>
<td>8</td>
<td>Wake</td>
<td>12-16</td>
</tr>
<tr>
<td>11</td>
<td>4</td>
<td>Harnett</td>
<td>7-11</td>
</tr>
<tr>
<td>14</td>
<td>4</td>
<td>Durham</td>
<td>8-11</td>
</tr>
<tr>
<td>15B</td>
<td>3</td>
<td>Orange</td>
<td>4-8</td>
</tr>
<tr>
<td>16</td>
<td>4</td>
<td>Robeson</td>
<td>8-16</td>
</tr>
<tr>
<td>19B</td>
<td>2</td>
<td>Montgomery</td>
<td>2-4</td>
</tr>
<tr>
<td>20</td>
<td>5</td>
<td>Stanly</td>
<td>5-6</td>
</tr>
<tr>
<td>24</td>
<td>3</td>
<td>Avery</td>
<td>3-4</td>
</tr>
<tr>
<td>26</td>
<td>10</td>
<td>Mecklenburg</td>
<td>15-26</td>
</tr>
<tr>
<td>29</td>
<td>4</td>
<td>Transylvania</td>
<td>2-4</td>
</tr>
</tbody>
</table>

(b) Effective September 1, 1981, G.S. 7A-133 is further amended in the Table by deleting all reference to the Seventeenth Judicial District and by substituting the following:

<table>
<thead>
<tr>
<th>District</th>
<th>Judges</th>
<th>County</th>
<th>Magistrates Min.-Max.</th>
<th>Additional Seats of Court</th>
</tr>
</thead>
<tbody>
<tr>
<td>17A</td>
<td>2</td>
<td>Caswell</td>
<td>2-4</td>
<td>Reidsville</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Eden</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Madison</td>
</tr>
<tr>
<td>17B</td>
<td>2</td>
<td>Stokes</td>
<td>2-4</td>
<td>Mt. Airy</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Surry</td>
<td>5-8</td>
<td></td>
</tr>
</tbody>
</table>

The four current district court judges allocated to the Seventeenth Judicial District are to serve in both Judicial Districts 17A and 17B until the first Monday in December, 1982. As of the first Monday in December, 1982, two of these four current district court judges or their successors are assigned to Judicial District 17A and two of the four current district court judges or their successors are assigned to Judicial District 17B.
(c) The vacancies in the judgeships authorized by this section shall be filled by appointments by the Governor. The appointees shall serve until the first Monday in December, 1982. The appointees' successors shall be chosen in the general election of November 1982, to serve a four-year term beginning the first Monday in December, 1982.

(d) In addition to the new magistrates' positions authorized by the change in the quotas pursuant to subsection (a) of this section, additional magistrates' positions are authorized in the following counties as follows:

<table>
<thead>
<tr>
<th>County</th>
<th>Magistrates</th>
</tr>
</thead>
<tbody>
<tr>
<td>Martin</td>
<td>1</td>
</tr>
<tr>
<td>Craven</td>
<td>1</td>
</tr>
<tr>
<td>Duplin</td>
<td>1</td>
</tr>
<tr>
<td>Halifax</td>
<td>1</td>
</tr>
<tr>
<td>Cumberland</td>
<td>2</td>
</tr>
<tr>
<td>Caswell</td>
<td>1</td>
</tr>
<tr>
<td>Guilford</td>
<td>1</td>
</tr>
<tr>
<td>Moore</td>
<td>1</td>
</tr>
<tr>
<td>Yancey</td>
<td>1</td>
</tr>
</tbody>
</table>

Sec. 5. (a) New secretarial positions are created and allocated to the resident superior court judges in the judicial districts and in the numbers as follows:

<table>
<thead>
<tr>
<th>District</th>
<th>Secretaries</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>1</td>
</tr>
<tr>
<td>11</td>
<td>1</td>
</tr>
<tr>
<td>15A</td>
<td>1</td>
</tr>
<tr>
<td>27A</td>
<td>1</td>
</tr>
<tr>
<td>27B</td>
<td>1</td>
</tr>
<tr>
<td>29</td>
<td>1</td>
</tr>
</tbody>
</table>

(b) Effective September 1, 1981, one of the two secretaries currently allocated to the superior court judge in the Seventeenth Judicial District is allocated to the superior court judge in Judicial District 17A and the second to the superior court judge in Judicial District 17B.

Sec. 6. (a) New superior court reporter positions are created and allocated to the judicial districts and in the numbers as follows:

<table>
<thead>
<tr>
<th>District</th>
<th>Reporters</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>4</td>
<td>1</td>
</tr>
<tr>
<td>11</td>
<td>1</td>
</tr>
<tr>
<td>21</td>
<td>1</td>
</tr>
</tbody>
</table>

(b) Effective September 1, 1981, the court reporter position currently allocated to the superior court in the Seventeenth Judicial District is allocated to Judicial District 17B, and a new court reporter position is created and allocated to the superior court in Judicial District 17A.

(c) A new district court reporter position is created and allocated to the district court in Judicial District 5.

Sec. 7. New deputy clerk of superior court positions are created and allocated to the counties and in the numbers as follows:

<table>
<thead>
<tr>
<th>County</th>
<th>Deputy Clerks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beaufort</td>
<td>1</td>
</tr>
<tr>
<td>Bladen</td>
<td>1</td>
</tr>
</tbody>
</table>

1487
Sec. 8. New witness assistant coordinator positions are created and allocated to the prosecutorial districts and in the numbers as follows:

<table>
<thead>
<tr>
<th>District</th>
<th>Witness Assistant Coordinators</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
<td>1</td>
</tr>
<tr>
<td>12</td>
<td>1</td>
</tr>
<tr>
<td>14</td>
<td>1</td>
</tr>
<tr>
<td>15B</td>
<td>1</td>
</tr>
<tr>
<td>18</td>
<td>1</td>
</tr>
<tr>
<td>21</td>
<td>1</td>
</tr>
<tr>
<td>28</td>
<td>1</td>
</tr>
</tbody>
</table>

1488
Sec. 9. (a) New secretarial positions are created and allocated to the district attorney's office in the prosecutorial districts and in the numbers as follows:

<table>
<thead>
<tr>
<th>District</th>
<th>Secretaries</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>1</td>
</tr>
<tr>
<td>7</td>
<td>1</td>
</tr>
<tr>
<td>10</td>
<td>1</td>
</tr>
<tr>
<td>13</td>
<td>1</td>
</tr>
<tr>
<td>14</td>
<td>1</td>
</tr>
</tbody>
</table>

(b) Effective September 1, 1981, the current secretary allocated to the district attorney's office in Judicial/Prosecutorial District 17 is allocated to the district attorney's office in Judicial/Prosecutorial District 17B. A new secretarial position is created and allocated to the district attorney's office in Judicial/Prosecutorial District 17A.

Sec. 10. From the funds appropriated to the Judicial Department by Chapter 859, 1981 Session Laws, there is allocated to the Administrative Office of the Courts moneys sufficient to fund the positions authorized and created by Sections 1 through 9 of this act.

Sec. 11. (a) Funds appropriated by Chapter 859, 1981 Session Laws, to the Judicial Department for indigent counsel may be used, beginning October 1, 1981, for the Appellate Defender Office established under Article 38 of Chapter 7A of the General Statutes.

(b) Chapter 7A of the General Statutes is amended by adding a new Article 38 to read:

"ARTICLE 38.

"Appellate Defender Office.

"§ 7A-475. Appellate defender office established.—(a) There is established the office of appellate defender.

(b) The appellate defender shall be an attorney licensed to practice law in North Carolina and shall devote his full time to the duties of the office.

"§ 7A-476. Term of office.—The initial term of office of the appellate defender shall be from October 1, 1981, through June 30, 1985. Subsequent terms shall be four years.

"§ 7A-477. Appointment and removal.—(a) The appellate defender shall be appointed by the Governor.

(b) A vacancy in the office of appellate defender shall be filled by appointment by the Governor for the unexpired term.

(c) The appellate defender may be suspended or removed from office and reinstated for the same causes and under the same procedures as are applicable to removal of a district attorney.

"§ 7A-478. Duties of appellate defender.—The appellate defender shall:

1. Represent indigent persons subsequent to conviction in trial courts pursuant to assignments by trial court judges under the general supervision of the Chief Justice of the Supreme Court of North Carolina. The appellate defender shall only accept that number of assignments and maintain that caseload which will insure quality criminal defense appellate services consistent with the resources available to the appellate defender.

2. Maintain a repository of briefs prepared by the appellate defender to be made available to private counsel representing indigents in criminal cases.
(3) Provide continuing legal education training to assistant appellate defenders and to private counsel representing indigents in criminal appeals, as resources are available.

"§ 7A-479. Staff.—The appellate defender shall appoint assistants and staff, not to exceed the number authorized by the Administrative Office of the Courts. The assistants and staff shall serve at the pleasure of the appellate defender.

"§ 7A-480. Funds.—Funds to operate the office of appellate defender, including office space, office equipment, supplies, postage, telephone, library, staff salaries, training and travel, shall be provided by the Administrative Office of the Courts from funds authorized by law. Salaries shall be set by the Administrative Office of the Courts.

"§ 7A-481. Acceptance of property.—The Administrative Office of the Courts may accept the property purchased by the Appellate Defender Project for North Carolina, pursuant to the National Legal Aid and Defender Association Agreement with Legal Services of North Carolina, Inc., dated August 15, 1980.

"§ 7A-482. The appellate defender shall keep appropriate records and make periodic reports, as requested, to the Administrative Office of the Courts.

"§ 7A-483. Effective date.—This Article shall become effective October 1, 1981, and shall expire June 30, 1985."

Sec. 12. From the funds appropriated to the Judicial Department by Chapter 859, 1981 Session Laws, there is allocated to the Administrative Office of the Courts the sum of seven thousand five hundred dollars ($7,500) for fiscal year 1981-82 and the sum of seven thousand five hundred dollars ($7,500) for fiscal year 1982-83 to fund the Interpreters for the Deaf Program established by H.B. 427, 1981 Session, if enacted.

Sec. 13. From the funds appropriated to the Judicial Department by Chapter 859, 1981 Session Laws, there is allocated to the district attorney of Prosecutorial District 15B the sum of six thousand dollars ($6,000) for fiscal year 1981-82 and the sum of six thousand dollars ($6,000) for fiscal year 1982-83 to provide operating expenses for the Dispute Settlement Center, Inc., established in 1978 in Orange County.

Sec. 14. (a) G.S. 7A-101 is amended by deleting the first classification in the salary chart and by rewriting the second classification to read: "Less than 19,999 — $19,056".

(b) From the funds appropriated to the Judicial Department by Chapter 859, 1981 Session Laws, there is allocated to the Administrative Office of the Courts forty-nine thousand two hundred thirty dollars ($49,230) for fiscal year 1981-82 and forty-nine thousand two hundred eighty dollars ($49,280) for fiscal year 1982-83 to fund the increases in salary and accompanying fringe benefits required by subsection (a) of this section.

Sec. 15. From the funds appropriated to the Judicial Department by Chapter 859, 1981 Session Laws, there is allocated to the Department of Crime Control and Public Safety the sum of one hundred fifty thousand dollars ($150,000) for fiscal year 1981-82 and the sum of one hundred fifty thousand dollars ($150,000) for fiscal year 1982-83 to fund the deferred prosecution, community service restitution and volunteer program for youthful and adult offenders authorized by S.B. 570, 1981 Session, if enacted.

Sec. 16. From the funds appropriated to the Judicial Department by Chapter 859, 1981 Session Laws, there is allocated to the Criminal Code
Commission the sum of twenty thousand dollars ($20,000) for fiscal year 1981-82 to provide funds for the winding up of the Commission.

Sec. 17. From the funds appropriated to the Judicial Department by Chapter 859, 1981 Session Laws, there is allocated to the Administrative Office of the Courts the sum of five hundred thousand dollars ($500,000) for fiscal year 1981-82 to provide court equipment and supplies.

Sec. 18. Effective January 1, 1981, G.S. 7A-44 is amended in the second sentence by deleting the word "education".

Sec. 19. (a) G.S. 122-98(a) as rewritten by Chapter 491, Session Laws of 1981, is amended by deleting the second sentence and substituting therefor the following:

"The territorial jurisdiction of these special police officers shall also include any property formerly a part of the original Camp Butner reservation, including: (i) both those areas currently owned and occupied by the State and its agencies and those which may have been leased or otherwise disposed of by the State; (ii) any property adjacent to that site that is owned or leased by the State or any political subdivision of the State; and (iii) any adjoining property."

(b) G.S. 122-98(b) as rewritten by Chapter 491, Session Laws of 1981, is amended by adding the following sentence thereto:

"Any civil or criminal process to be served on any person confined at any State facility within the territorial jurisdiction stated in subsection (a) shall be forwarded by the sheriff of the county in which the process originated to the Chief of the Butner Public Safety Department. Such process shall be served by a special police officer authorized by this section. The Secretary of Crime Control and Public Safety shall collect from the sheriff of the county in which the process originated one half of the uniform fee established for such process under G.S. 7A-304 or G.S. 7A-311 and transmit such sums collected to the General Fund."

(c) G.S. 20-125(b) is amended by inserting before the words "State Highway Patrol" in the first sentence thereof the words "Department of Crime Control and Public Safety including the".

(d) G.S. 143-166.13(a) is amended by adding a new subsection (17) to read as follows:

"(17) Sworn State Law Enforcement Officers with the power of arrest, Department of Crime Control and Public Safety."

(e) From the funds appropriated to the Judicial Department by Chapter 859, 1981 Session Laws, there is allocated to the Department of Crime Control and Public Safety the sum of one hundred eighty-five thousand two hundred thirty-three dollars ($185,233) for fiscal year 1981-82 and the sum of one hundred fifty-five thousand eight hundred sixty dollars ($155,860) for fiscal year 1982-83 to fund the provisions authorized by this section.

Sec. 20. Moneys remaining from the funds appropriated to the Judicial Department by Chapter 859, 1981 Session Laws, for the purposes set forth in this act, after the positions and programs authorized by Sections 1 through 19 of this act are funded, shall be held in a restrictive reserve fund. In addition, any budgeted funds authorized for positions and programs by this act which are not expended for the purpose authorized shall be held in this reserve fund. Moneys from this fund may be allocated only with the approval of the Joint Legislative Commission on Governmental Operations.

Sec. 21. This act is effective upon ratification.
CHAPTER 964      Session Laws—1981

In the General Assembly read three times and ratified, this the 10th day of July, 1981.

H. B. 1248    CHAPTER 965
AN ACT TO MODIFY PUBLIC SCHOOL RESIDENCE REQUIREMENTS
AS ENACTED BY CHAPTER 567, SESSION LAWS OF 1981, FOR A
PERSON WHO RESIDES IN A PLACE THAT IS NOT HIS DOMICILE
EITHER BECAUSE HIS PARENT OR GUARDIAN IS A COLLEGE OR
UNIVERSITY STUDENT, EMPLOYEE OR FACULTY MEMBER.
The General Assembly of North Carolina enacts:

Section 1. Chapter 115C of the General Statutes is amended by adding a
new section to read:

"§ 115C-366.2. Applicability to certain persons.—For the purposes of G.S.
115C-366 and G.S. 115C-366.1 for any person who is a resident of a place which
is not the person’s place of domicile, either because: (i) of the residence of a
parent or guardian who is a student, employee or faculty member, of a college or
university, or a visiting scholar at the National Humanities Center; or (ii) the
child is placed in or assigned to a group home, foster home, or other similar
facility or institution, other than a child covered by G.S. 115C-140.1(a) those
sections shall be applied by substituting the word ‘residing’ for the word
‘domiciled’, by substituting the word ‘residence’ for the word ‘domicile’, and by
substituting the word ‘residents’ for the word ‘domiciliaries’.

Sec. 2. This act shall not be construed to affect the ability of any person
to acquire a new domicile.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of
July, 1981.

H. B. 697    CHAPTER 966
AN ACT TO REQUIRE THAT COUNSEL BE APPOINTED FOR
INDIGENT PARENTS IN TERMINATION OF PARENTAL RIGHTS
ACTIONS.
The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-289.23 is amended by deleting the third sentence and
substituting the following:

“The parent has the right to counsel and to appointed counsel in cases of
indigency unless the parent waives the right. The fees of appointed counsel
shall be borne by the Administrative Office of the Courts. In addition to the
right to appointed counsel set forth above, a guardian ad litem shall be
appointed in accordance with the provisions of G.S. 1A-1, Rule 17, to represent
a parent in the following cases:

(1) where it is alleged that a parent’s rights should be terminated pursuant
to G.S. 7A-289.32(7); or

(2) where the parent is under the age of 18 years.”

Sec. 2. G.S. 7A-289.27 is amended in the second paragraph by inserting
on line 7 thereof, between the period and the word “Service”, a new sentence to
read as follows: “The summons shall also notify the parents of the child that
the parents are entitled to appointed counsel if they are indigent, provided they
request counsel at or before the time of the hearing and that a parent is entitled to attend any hearing affecting his parental rights."

Sec. 3. G.S. 7A-289.30 is amended by redesignating the present subsections and inserting after subsection (a) a new subsection (b) to read as follows:

"(b) The court shall inquire whether the child's parents are present at the hearing and, if so, whether they are represented by counsel. If the parents are not represented by counsel, the court shall inquire whether the parents desire counsel but are indigent. In the event that the parents desire counsel but are indigent as defined in G.S. 7A-450(a) and are unable to obtain counsel to represent them, the court shall appoint counsel to represent them. The court shall grant the parents such an extension of time as is reasonable to permit their appointed counsel to prepare their defense to the termination petition. In the event that the parents do not desire counsel and are present at the hearing, the court shall examine each parent and make findings of fact sufficient to show that the waivers were knowing and voluntary. This examination shall be reported as provided in G.S. 7A-198."

Sec. 4. G.S. 7A-451(a) is amended on line 37 by deleting the period and inserting in lieu thereof a semicolon and by adding a new subdivision to read as follows:

"(15) An action brought pursuant to Article 24B of Chapter 7A of the General Statutes to terminate an indigent person's parental rights."

Sec. 5. This act shall become effective 30 days after ratification and shall only apply to cases brought on or after the effective date. In the General Assembly read three times and ratified, this the 10th day of July, 1981.

H. B. 1342

CHAPTER 967

AN ACT TO AMEND THE LAWS REGULATING THE PRACTICE OF COSMETIC ART.

The General Assembly of North Carolina enacts:

Section 1. G.S. 88-19, as rewritten by Chapter 615 of the 1981 Session Laws, is amended by adding a new paragraph at the end to read as follows:

"In lieu of meeting the requirements of subsections (1)-(5) of this section, any applicant who has been licensed to practice as an apprentice or registered cosmetologist by the examining board of another state shall be admitted to practice cosmetic art in this State under the same reciprocity or comity provisions which the state of his or her registration or licensing grants to persons licensed in this State, provided the applicant files his application on or before June 30, 1982."

Sec. 2. This act is effective upon ratification. In the General Assembly read three times and ratified, this the 10th day of July, 1981.
The General Assembly of North Carolina enacts:

Section 1. G.S. 161-10(a) is amended by adding the following at the beginning:

"Except as provided in G.S. 130-40, all fees collected under this section shall be deposited into the county general fund."

Sec. 2. Subdivisions (1), (3), (5), (6), (7), (8), (9), (10), (17) and (18) of G.S. 161-10(a) are rewritten to read:

"(1) Instruments in General. For registering or filing any instrument for which no other provision is made by this section, whether written, printed, or typewritten, the fee shall be four dollars ($4.00) for the first page, which page shall not exceed 8-1/2 inches by 14 inches, plus one dollar and fifty cents ($1.50) for each additional page or fraction thereof. A page exceeding 8-1/2 inches by 14 inches shall be considered two pages.

(3) Plats. For each original or revised plat recorded - twelve dollars and fifty cents ($12.50); for furnishing a certified copy of a plat - three dollars ($3.00).

(5) Registration of Birth Certificate One Year or More after Birth. For preparation of necessary papers when birth to be registered in another county - five dollars ($5.00); for registration when necessary papers prepared in another county, with one certified copy - five dollars ($5.00); for preparation of necessary papers and registration in the same county, with one certified copy - ten dollars ($10.00).

(6) Amendment of Birth or Death Record. For preparation of amendment and affecting correction - two dollars ($2.00).

(7) Legitimations. For preparation of all documents concerned with legitimations - seven dollars ($7.00).

(8) Certified Copies of Birth and Death Certificates and Marriage Licenses. For furnishing a certified copy of a death or birth certificate or marriage license - three dollars ($3.00).

(9) Certified Copies. For furnishing a certified copy of an instrument for which no other provision is made by this section - three dollars ($3.00) for the first page, plus one dollar ($1.00) for each additional page or fraction thereof.

(10) Comparing Copy for Certification. For comparing and certifying a copy of any instrument filed for registration, when the copy is furnished by the party filing the instrument for registration and at the time of filing thereof - two dollars ($2.00).

(17) Qualification of Notary Public. For administering the oaths of office to a notary public and making the appropriate record entries as provided in G.S. 10-2 - five dollars ($5.00).

(18) Reinstatement of Articles of Incorporation. For filing reinstatements of Articles of Incorporation prepared pursuant to G.S. 105-232; such fees as provided for instruments in general. The fee shall be paid by the corporation affected."

Sec. 3. All local acts or portions of local acts in conflict with any of the provisions of this act are repealed.
Sec. 4. Chapter 161 of the General Statutes is amended by adding a new section to read:

"§161-4.1. Salary in counties where fees formerly allowed.—In any county where during the fiscal year beginning July 1, 1980, and ending June 30, 1981, the register of deeds received fees in addition to salary, and retained them personally as allowed by local act, the salary of the register of deeds in such county in any future fiscal year shall not be less than the sum of the salary plus fees received in the fiscal year beginning July 1, 1980 and ending June 30, 1981."

Sec. 5. This act shall become effective August 1, 1981.
In the General Assembly read three times and ratified, this the 10th day of July, 1981.

H. B. 1362

CHAPTER 969
AN ACT TO INCREASE THE PUNISHMENT FOR PROSTITUTION IN THE FIRST DEGREE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-208 is amended by adding the following new paragraph after the first paragraph:

"Notwithstanding the previous paragraph, any person who shall be deemed guilty in the first degree, as set forth in G.S. 14-207, shall be guilty of a misdemeanor and shall be imprisoned for not less than 60 days nor more than two years, and may be fined in the discretion of the court."

Sec. 2. This act applies only in cities with a population of 300,000 or over, according to the most recent decennial federal census, but shall only apply in a city within that class if the city has adopted an ordinance to that effect, which ordinance makes a finding that prostitution is a serious problem within the city.

Sec. 3. This act shall become effective 10 days after ratification.
In the General Assembly read three times and ratified, this the 10th day of July, 1981.

S. B. 658

CHAPTER 970
AN ACT TO AUTHORIZE THE USE OF VARIABLE OR ADJUSTABLE RATE LOANS FOR FINANCING MOBILE OR MANUFACTURED HOMES.

The General Assembly of North Carolina enacts:

Section 1. Article 1 of G.S. Chapter 24 is hereby amended by adding a new section, to be designated G.S. 24-1.1B, to read as follows:

"§24-1.1B. Manufactured home loans; variable interest rate loans authorized.—(a) For the purposes of this section, the terms listed herein shall have the following meanings:

(I) ‘Lender’ means a person regularly engaged in the business of selling or financing manufactured homes (A) who is an arranger of credit, or (B) who regularly extends consumer credit that is subject to a finance charge or is payable by written agreement in more than four installments (not including a down payment) and to whom the
obligation is initially payable, either on the face of the note or contract, or by agreement when there is no note or contract.

(2) 'Interest' means finance charge expressed as an annual percentage rate. The finance charge is the cost of consumer credit as a dollar amount. It includes any charge payable directly or indirectly by the lender as an incident to or a condition of the extension of credit.

(3) 'Manufactured home' shall mean a mobile home, as defined in G.S. 143-145(7), which is used as a residence, whether or not the home is affixed to real property.

(4) 'Manufactured home loan' shall include both the credit sale of a manufactured home and a direct loan used to finance the purchase of a manufactured home, in which the seller or lender is secured by:
   a. a security interest which is the first lien on a manufactured home and any personal property sold therewith as part of the home,
   b. a first or second mortgage or deed of trust on real estate, or
   c. a combination of these financing methods.

(b) A manufactured home loan may provide for a fixed rate of interest payable in substantially equal successive installments over a fixed term, or a manufactured home loan may provide that the rate of interest may be adjusted at certain regular intervals. In this latter event, the manufactured home loan shall be subject to the following provisions:

(1) Adjustments in the interest rate charged must be based on changes in a specific index, as set forth in the loan agreement, with the index base being fixed by the value of the index on the first day of the month in which the loan agreement is dated. The index may be only:
   a. the monthly average yield on United States Treasury securities adjusted to a constant maturity of five years; or
   b. an index expressly approved by the Federal Home Loan Bank Board or by the Office of the Comptroller of the Currency, Department of the Treasury, for adjustable or variable interest rates on residential mortgage loans.

(2) Adjustments to the interest rate may not exceed one-half of one percent (1/2 of 1%) a year for any six-month period. If the stated regular interval for rate adjustments is a twelve-month period, or longer, rate adjustments may not exceed one percent (1%) a year.

(3) The rate of interest shall not increase or decrease during the six-month period beginning with the date of execution of the loan agreement, and at least six months shall elapse between changes.

(4) Adjustments (either up or down) to the rate of interest on each adjustment date shall, for the initial adjustment, be equal to the difference between the index value for the third calendar month preceding the adjustment date and the index value on the date of execution of the manufactured home loan. For adjustments after the initial adjustment, adjustments shall be equal to the difference between the index value for the third month preceding the adjustment date and the index value for the third month preceding the date of the immediately preceding rate adjustment.

(5) Any increase in the rate of interest permitted by this section is optional with the lender. Decreases in the rate of interest are mandatory.
whenever the total decrease in the index value equals or exceeds one
fourth of one percentage point.

(6) By agreement of the parties, adjustments to the rate of interest may
result in changes in the amount of regular installment payments due
under the loan agreement, or in changes in the term of the loan
agreement, or in a combination of such changes in amount and term.

(7) A lender shall allow a borrower to prepay in whole or in part at any
time without a prepayment penalty.

(8) A lender may not charge any fees to, or assess any costs against, a
borrower in connection with the processing of any rate adjustment, term
adjustment or combination of rate and term adjustment.

(9) Before execution of a manufactured home loan agreement, the lender
shall comply with all applicable requirements and disclosures pursuant
to Part I of the Consumer Protection Act (Truth-In-Lending Act) 15
USC §1601, et seq., as amended, and as implemented by Regulation Z
promulgated by the Board of Governors of the Federal Reserve System.
The required disclosures shall be made on the basis of the rate of
interest in effect at the time the disclosure is made, assuming that each
scheduled payment is made on the date it is due and in the scheduled
amount. Such disclosures shall include the following information:
a. the circumstances under which the rate may increase;
b. any limitations on the increase;
c. the effect of an increase; and
d. an example of the payment terms that would result from an increase.

(10) The lender shall send written notification of any rate adjustment, by
first class mail, postage prepaid, at least one month before the date that
the new rate of interest will take effect. The notification shall comply
with all applicable requirements of Part I of the Consumer Protection
Act (Truth-In-Lending Act) 15 USC §1601, et seq., as amended, and as
implemented by Regulation Z promulgated by the Board of Governors
of the Federal Reserve System. Such notification shall include:
a. the current and new rates of interest;
b. the index value for the month during which the manufactured home
loan agreement was executed or, for adjustments after the initial
adjustment, the index value used for the immediately preceding rate
adjustment, and the index value used to calculate the new change in
the rate of interest; and
c. the amounts of new installment payments, if any, and the remaining
maturity.

(c) The provisions of G.S. Chapter 25A, the Retail Installment Sales Act shall
apply to the consumer credit sale of a manufactured home, provided that:
(1) A manufactured home loan shall be subject to G.S. Chapter 25A except
for G.S. 25A-33(4);
(2) The provisions of this section shall control, where inconsistent with the
provisions of G.S. Chapter 25A (G.S. 25A-34 shall not be construed to
limit variation in regular monthly payment amounts on loans under
this section); and
(3) Interest charges on manufactured home loans shall be computed and
paid periodically as a percentage of the unpaid principal balance. This
percentage shall be computed as the number of days actually elapsed,
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  times the effective annual percentage rate, divided by 365. Scheduled monthly payments may assume a 30-day month. Payments may be applied first to accrued interest, then to principal. No default charge shall be assessed on loans under this section.

  (4) Nothing in this section shall be construed to alter the federal preemption allowing unlimited interest rate ceilings as they apply to first mortgage loans.”

Sec. 2. G.S. 25A-2(a)(5) is hereby rewritten to read as follows:

“(5) The amount financed does not exceed twenty-five thousand dollars ($25,000) or, in the case of a mobile home as defined in G.S. 143-145(7), regardless of the amount financed.”

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.

H. B. 1385  CHAPTER 971

AN ACT EXEMPTING FROM THE PROVISIONS OF ARTICLE 12, CHAPTER 160A, OF THE GENERAL STATUTES OF NORTH CAROLINA, THE COUNTY OF EDGECOMBE AS TO LEASES OR SALES OF REAL ESTATE OWNED BY IT KNOWN AS THE EDGECOMBE GENERAL HOSPITAL PROPERTY AND THE PERSONAL PROPERTY USED FOR HOSPITAL AND MEDICAL CARE PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. The County of Edgecombe is hereby exempt from all provisions, restrictions and limitations as to methods and procedures required to effectuate leases or sales of real estate and personal property provided for in Article 12 of Chapter 160A of the General Statutes, in connection with any lease or sale of real estate owned by it known as the Edgecombe General Hospital property consisting of approximately 20 acres and the buildings and improvements thereon, and the equipment and personal property now owned or hereafter acquired situate thereon and therein.

Sec. 2. This act is effective with respect to a sale or lease only if such sale or lease is given prior approval by a resolution unanimously adopted by the Board of County Commissioners of the County of Edgecombe, authorizing said lease or sale. Such lease or sale may be for cash or with deferred payments secured by a Purchase Money Deed of Trust and for other consideration. It is the intent hereof that leases and sales may be negotiated and consummated without further formality other than the required resolution unanimously adopted by the Edgecombe County Board of Commissioners, all on terms as negotiated, at a regular meeting or a special meeting called for that purpose, after a notice of the purpose of such meeting has been published in a newspaper having general circulation in Edgecombe County at least once and at least 10 days prior to such meeting.

Sec. 3. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 7th day of October, 1981.

H. B. 1398  CHAPTER 972
AN ACT TO PROVIDE THAT THE CITY OF CONOVER SHALL BE GOVERNED BY GENERAL LAW CONCERNING FORMAL BIDS.

The General Assembly of North Carolina enacts:
Section 1. Section 3.1021 of the Charter of the City of Conover, as found in Chapter 78, Session Laws of 1977, is amended by deleting the words "except that", and substituting in lieu thereof a period, and by deleting the first sentence of subsection (a).
Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 7th day of October, 1981.

H. B. 44  CHAPTER 973
AN ACT TO ALLOW NONRESIDENTS, FILING NORTH CAROLINA RETURNS, TO APPORTION PERSONAL DEDUCTIONS BETWEEN NORTH CAROLINA AND THEIR STATES OF PRINCIPAL RESIDENCE TO THE EXTENT THAT THEIR STATES OF PRINCIPAL RESIDENCE ALLOW APPORTIONMENT OF PERSONAL DEDUCTIONS BY NONRESIDENTS FILING RETURNS IN THAT STATE.

The General Assembly of North Carolina enacts:
Section 1. G.S. 105-147(18) is rewritten to read as follows:
"In the case of a nonresident individual or partnership, the deductions allowed in this section other than deductions connected with income arising from sources within the State shall be allowed only in the proportion that the individual’s adjusted gross income reportable to North Carolina relates to his total adjusted gross income, if the nonresident’s state of principal residence allows similar apportionment of personal deductions. The proper apportionment and allocation of the deductions with respect to sources of income within and without the State shall be determined under rules prescribed by the Secretary of Revenue."
Sec. 2. G.S. 105-147(22) is amended to delete the last sentence which reads as follows:
"Provided, further, that the provisions of this subdivision shall not apply to taxpayers who are not residents of this State."
Sec. 3. This act is effective with respect to taxable years beginning on and after January 1, 1981.
In the General Assembly read three times and ratified, this the 7th day of October, 1981.
H. B. 1406

CHAPTER 974

AN ACT RELATING TO THE TAX RECORDS OF BUNCOMBE COUNTY AND THE CITY OF ASHEVILLE.

The General Assembly of North Carolina enacts.

Section 1. In order to clarify and make more definite the tax records for the County of Buncombe and the City of Asheville, those certain cumulative records of uncollected real estate taxes for the years 1944 through 1979 and designated as "Condensed Tax Scroll for the years 1944 through 1979" shall, upon adoption by resolution by the Board of Tax Supervision for Buncombe County, North Carolina, be declared the official scroll books or records of unpaid real estate taxes due the County of Buncombe and the City of Asheville for the years 1944 through 1979 and unpaid personal property taxes for the years 1971 through 1979 and shall be substituted in all respects for the old scroll books for said years.

Sec. 2. All real estate taxes due the City of Asheville and the County of Buncombe or the Board of Tax Supervision for Buncombe County for the years 1944 through 1950 and all real estate and personal property taxes due for the years 1971 through 1979 which do not appear as unpaid or assigned on said Condensed Tax Scrolls, except for deferred taxes as provided for under the provisions of G.S. 105-277.4(c) as amended, shall upon the adoption of said scrolls by the Buncombe County Board of Tax Supervision, be conclusively presumed to have been paid and the tax collector for the Board of Tax Supervision for Buncombe County shall not be responsible for the omission from said tax scrolls for any unpaid real estate taxes for the years 1944 through 1950 and any real estate and personal property taxes for the years 1971 through 1979.

Sec. 3. All laws and clauses of laws in conflict with the provisions of this act are repealed.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of October, 1981.

S. B. 261

CHAPTER 975

AN ACT TO INDEX TO THE CONSUMER PRICE INDEX THE EARNABLE DIFFERENCE FOR DISABILITY BENEFICIARIES OF THE STATE ADMINISTERED RETIREMENT PROGRAMS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-166(y) is amended by rewriting the sixth paragraph to read:

"On and after July 1, 1981, the Board of Commissioners shall determine whether a disability beneficiary who retired after July 1, 1981, is engaged in or is able to engage in a gainful occupation paying more than the difference, as hereinafter indexed, between his basic retirement allowance and the gross compensation earned as a law enforcement officer during the 12 consecutive months in the final 48 months of service prior to retirement producing the highest gross compensation, excluding any compensation received on account of termination. If the disability beneficiary is earning or is able to earn more than the difference, the portion of his basic disability retirement allowance not
provided by his contributions shall be reduced to an amount which, together with the portion of the basic disability retirement allowance provided by his contributions and the amount earnable by him shall equal the amount of his gross compensation prior to retirement. This difference shall be increased on January 1 each year by the ratio of the Consumer Price Index to the Index one year earlier, calculated to the nearest tenth of one percent (1/10th of 1%). Should the earning capacity of the disability beneficiary later change, the portion of his basic disability retirement allowance not provided by his contributions may be further modified. In lieu of the reductions on account of a disability beneficiary earning more than the aforesaid difference, he may elect to convert his disability retirement allowance to a basic service retirement allowance calculated on the basis of his average final compensation and creditable service at the time of disability retirement and his age at the time of conversion to service retirement. This election is irrevocable."

Sec. 2. G.S. 128-27(e) is amended by rewriting subparagraph (1) to read:

"The Board of Trustees shall determine whether a disability beneficiary is engaged in or is able to engage in a gainful occupation paying more than the difference, as hereinafter indexed, between his disability retirement allowance and the gross compensation earned as an employee during the 12 consecutive months in the final 48 months of service prior to retirement producing the highest gross compensation excluding any compensation received on account of termination. If the disability beneficiary is earning or is able to earn more than the difference, the portion of his disability retirement allowance not provided by his contributions shall be reduced to an amount which, together with the portion of the disability retirement allowance provided by his contributions and the amount earnable by him shall equal the amount of his gross compensation prior to retirement. This difference shall be increased on January 1 each year by the ratio of the Consumer Price Index to the Index one year earlier, calculated to the nearest tenth of a percent (1/10th of 1%). Should the earning capacity of the disability beneficiary later change, the portion of his disability retirement allowance not provided by his contributions may be further modified. In lieu of the reductions on account of a disability beneficiary earning more than the aforesaid difference, he may elect to convert his disability retirement allowance to a basic service retirement allowance calculated on the basis of his average final compensation and creditable service at the time of disability retirement and his age at the time of conversion to service retirement. This election is irrevocable."

Sec. 3. G.S. 135-5(e) is amended by rewriting subparagraph (1) to read:

"The Board of Trustees shall determine whether a disability beneficiary is engaged in or is able to engage in a gainful occupation paying more than the difference, as hereinafter indexed, between his disability retirement allowance and the gross compensation earned as an employee during the 12 consecutive months in the final 48 months prior to retirement producing the highest gross compensation excluding any compensation received on account of termination. If the disability beneficiary is earning or is able to earn more than the difference, the portion of his disability retirement allowance not provided by his contributions shall be reduced to an amount which, together with the portion of the disability retirement allowance provided by his contributions and the amount earnable by him shall equal the amount of his gross compensation prior to retirement. This difference shall be increased on January
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1 each year by the ratio of the Consumer Price Index to the Index one year earlier, calculated to the nearest tenth of one percent (1/10th of 1%). Should the earning capacity of the disability beneficiary later change, the portion of his disability retirement allowance not provided by his contributions may be further modified. In lieu of the reductions on account of a disability beneficiary earning more than the aforesaid difference, he may elect to convert his disability retirement allowance to a service retirement allowance calculated on the basis of his average final compensation and creditable service at the time of disability and his age at the time of conversion to service retirement. This election is irrevocable."

Sec. 4. G.S. 135-60 is amended by adding a new subparagraph (d) to read:
"(d) The Board of Trustees shall determine whether a disability beneficiary is engaged in or is able to engage in a gainful occupation paying more than the difference, as hereinafter indexed, between his disability retirement allowance and the gross compensation earned as an employee during the 12 consecutive months in the final 48 months of service prior to retirement producing the highest gross compensation excluding any compensation received on account of termination. If the disability beneficiary is earning or is able to earn more than the difference, the portion of his disability retirement allowance not provided by his contributions shall be reduced to an amount which, together with the portion of the disability retirement allowance provided by his contributions and the amount earnable by him shall equal the amount of his gross compensation prior to retirement. This difference shall be increased on January 1 of each year by the ratio of the Consumer Price Index to the Index one year earlier, calculated to the nearest tenth of one percent (1/10th of 1%). Should the earning capacity of the disability beneficiary later change, the portion of his disability retirement allowance not provided by his contributions may be further modified. In lieu of the reductions on account of a disability beneficiary earning more than the aforesaid difference, he may elect to convert his disability retirement allowance to a service retirement allowance calculated on the basis of his final compensation and creditable service at the time of disability retirement and his age at the time of conversion to service retirement. This election is irrevocable."

Sec. 5. This act shall become effective upon ratification.
In the General Assembly read three times and ratified, this the 8th day of October, 1981.

H. B. 873     CHAPTER 976

AN ACT TO AMEND THE TAX PROVISIONS OF CHAPTER 20 RELATING TO CARRIERS OF PASSENGERS OR PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-87 is amended by striking subsection (1) and inserting in lieu thereof the following subsection:
"(1) Common Carrier, Contract Carriers and Exempt For-Hire Passenger Carrier Vehicles. For-hire passenger vehicles shall be taxed at the rate of seventy-five dollars ($75.00) per year for each vehicle of nine passenger capacity or less and vehicles of over nine passenger capacity shall be classified as buses and shall be taxed at a rate of one dollar and forty cents ($1.40) per hundred pounds of empty weight per year for each vehicle; provided, however, no license

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shall be issued for the operation of any taxicab until the governing body of the
city or town in which such taxicab is principally operated, if the principal
operation is in a city or town, has issued a certificate showing:

a. that the operator of such taxicab has provided liability insurance or
   other form of indemnity for injury to person or damage to property
   resulting from the operation of such taxicab, in such amount as required
   by the city or town, and

b. that the convenience and necessity of the public requires the operation
   of such taxicab.

All persons operating taxicabs on January 1, 1945, shall be entitled to a
certificate of necessity and convenience for the number of taxicabs operated by
them on such date, unless since said date the license of such person or persons to
operate a taxicab or taxicabs has been revoked or their right to operate has been
withdrawn or revoked; provided that all persons operating taxicabs in
Edgecombe, Lee, Nash and Union Counties on January 1, 1945, shall be entitled
to certificates of necessity and convenience only with the approval of the
governing authority of the town or city involved.

A taxicab shall be defined as any motor vehicle, seating nine or fewer
passengers, operated upon any street or highway on call or demand, accepting or
soliciting passengers indiscriminately for hire between such points along streets
or highways as may be directed by the passenger or passengers so being
transported, and shall not include motor vehicles or motor vehicle carriers as
defined in G.S. 62-259 through G.S. 62-281. Such taxicab shall not be construed
to be a common carrier nor its operator a public service corporation."

Sec. 2. G.S. 20-87(2) is amended by striking the words and figures "two
dollars and forty cents ($2.40)" appearing in lines 8 and 9 and inserting in lieu
thereof the words and figures "one dollar and forty cents ($1.40)".

Sec. 3. G.S. 20-87 is amended by deleting subsection (3) and
redesignating subsection (4) as subsection (3) and the remaining subsections
accordingly.

Sec. 4. G.S. 20-87(3) as redesignated relating to limousine vehicles is
amended by striking the statutory cite "G.S. 20-87(3)" appearing in line 4 and
inserting in lieu thereof the statutory cite "G.S. 20-87(1)".

Sec. 5. G.S. 20-87.1 is rewritten to read:

"§ 20-87.1. Reciprocity; passenger buses operated by common carrier of
passengers.—When a resident common carrier of passengers of this State
interchanges a properly licensed bus with another common carrier of passengers
who is a resident of another state, and adequate records are on file in its office
to verify such interchanges, the North Carolina licensed common carrier of
passengers may use the bus licensed in such other state the same as if it is its
own during the time the nonresident carrier is using the North Carolina
licensed bus."

Sec. 6. G.S. 20-88 is amended by striking subsection (e) in its entirety
and redesignating subsections (f), (g) and (h) as (e), (f) and (g) respectively.

Sec. 7. G.S. 20-89 is hereby repealed.

Sec. 8. G.S. 20-90 is hereby repealed.

Sec. 9. G.S. 20-91 is hereby rewritten to read as follows:

"§ 20-91. Records, applications, reports or returns required of carriers of
passengers and property.—(a) Individual motor vehicle mileage records, motor
vehicle equipment records, motor vehicle inventory records and motor vehicle

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revenue records shall be prepared and maintained in accordance with rules and regulations issued by the commissioner.

Applications for licensing or registering motor vehicles in North Carolina shall be applied for on forms approved by the commissioner and filed in accordance with rules and regulations issued by the commissioner. Applications for licensing or registering motor vehicles in North Carolina are accepted subject to audit.

(b) It shall be the duty of the commissioner, by competent auditors, to have the books, records, tax returns, applications, and any and all other pertinent records or documents of any registrant licensing or registering motor vehicles, or that are required to license or register motor vehicles, under the provisions of this Article, audited for the purpose of determining whether such registrant is maintaining acceptable records, filing correct applications and paying correct registration fees or taxes as required.

Every registrant subject to licensing or registration and audit under the provisions of this Article shall retain all pertinent licensing and registration documents, books, records, tax returns, applications and all supporting records and documents on which an application for licensing or registration is based for a period of three full registration years. These records shall at all times during the business hours of the day be subject to audit. If it is determined these records are not located in North Carolina and it becomes necessary for the auditors to travel to the place where such records are normally kept, the registrant shall reimburse North Carolina for per diem and travel expense incurred in the performance of such audit. Where more than one registrant is audited on the same out-of-state trip, the per diem and travel expense may be prorated.

The commissioner may enter into reciprocal audit agreements with other agencies of this State or agencies of another state or states, for the purpose of conducting joint audits of any registrant subject to audit under this Article.

(c) If an audit is conducted and it becomes necessary to assess the registrant for deficiencies in registration fees or taxes due based on the audit, the assessment will be determined based on the schedule of rates prescribed for that registration year, adding thereto and as a part thereof an amount equal to five percent (5%) of the tax to be collected. If, during an audit, it is determined that:

(1) A registrant failed or refused to make acceptable records available for audit as provided by law; or

(2) A registrant misrepresented, falsified or concealed his records, then all plates and cab cards shall be deemed to have been issued erroneously and are subject to cancellation. The commissioner may assess the registrant for an additional percentage up to one hundred percent (100%) North Carolina registration fees at the rate prescribed for that registration year, adding thereto and as a part thereof an amount equal to five percent (5%) of the tax to be collected. The commissioner may cancel all registration and reciprocal privileges.

As a result of an audit, no assessment shall be issued and no claim for refund shall be allowed which is in an amount of less than ten dollars ($10.00).

The notice of any assessments will be sent to the registrant by registered or certified mail at the address of the registrant as it appears in the records of the Division of Motor Vehicles in Raleigh. The notice, when sent in accordance
with the requirements indicated above, will be sufficient regardless of whether or not it was ever received.

The failure of any registrant to pay any additional registration fees or tax within 30 days after the billing date, shall constitute cause for revocation of registration license plates, cab cards and reciprocal privileges.

(d) Except in accordance with proper judicial order, or as otherwise provided by law, it shall be unlawful for the Commissioner of Motor Vehicles, any deputy, assistant, agent, clerk, other officer, employee, or former officer or employee, to divulge or make known in any manner the amount of tax paid by any carrier of passengers or carrier of property as set forth or disclosed in any application, report or return required in remitting said tax, or as otherwise disclosed. Nothing in this section shall be construed to prohibit the publication of statistics, so classified as to prevent the identification of particular applications, reports or returns, and the items thereof; the inspection of such applications, reports or returns by the Governor, Attorney General, Utilities Commissioner, or their or its duly authorized representatives; or the inspection by a legal representative of the State of the application, report or return of any carrier of passengers or carrier of property which shall bring an action to set aside or review the tax based thereon, or against which action or proceeding has been instituted to recover any tax or penalty imposed by this Article. Any person, officer, agent, clerk, employee, or former officer or employee violating the provisions of this section shall be guilty of a misdemeanor. Nothing in this subsection or in any other law shall prevent the exchange of information between the Division of Motor Vehicles and the Department of Revenue when such information is needed by either or both of said departments for the purposes of properly enforcing the laws with the administration of which either or both of said departments is charged.”

Sec. 10. G.S. 20-93 is hereby repealed.

Sec. 11. G.S. 20-110(g) is hereby amended by striking the word “carrier” appearing as the first word in line 2 immediately before the word “common” and by striking the word “common” appearing as the first word in line 3 immediately before the word “carrier”.

Sec. 12. This act shall become effective January 1, 1982.

In the General Assembly read three times and ratified, this the 9th day of October, 1981.

H. B. 1261  CHAPTER 977
AN ACT TO EXEMPT DANCES AND OTHER AMUSEMENTS SPONSORED BY CERTAIN CORPORATIONS FROM THE LICENSE TAX ON AMUSEMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-37.1(a) is amended by adding a new paragraph at the end to read:

‘Dances and other amusements promoted and managed by a qualifying corporation that operates a center for the performing and visual arts are exempt from the license tax and the gross receipts tax imposed under this section if the dance or other amusement is held at the center. ‘Qualifying corporation’ means a corporation as defined in G.S. 105-130.2(1) that is exempt from income tax under G.S. 105-130.11(a)(3). ‘Center for the performing and visual arts’ means a
facilities, having a fixed location, that provides space for dramatic performances, studios, classrooms and similar accommodations to organized arts groups and individual artists. This exemption shall not apply to athletic events.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of October, 1981.

H. B. 943

CHAPTER 978

AN ACT TO REQUIRE A MINIMUM PERIOD OF FIVE YEARS OF MEMBERSHIP SERVICE FOR A RETIREMENT ALLOWANCE FROM THE STATE ADMINISTERED RETIREMENT SYSTEMS AND TO PROVIDE FOR THE COORDINATION OF JUDGES RETIREMENT BENEFITS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 135-5(a)(1) is amended by rewriting the subsection to read as follows:

"(1) Any member may retire upon written application to the Board of Trustees setting forth at what time, as of the first day of a calendar month, not less than 30 days nor more than 90 days subsequent to the execution of and filing thereof, he desires to be retired: Provided, that the said member at the time so specified for his retirement shall have attained the age of 60 years and have at least five years of membership service or shall have completed 30 years of creditable service."

Sec. 2. G.S. 135-5(b7)(1) is amended by deleting the words "", regardless of his years of creditable service.","

Sec. 3. G.S. 128-27(a)(1) is amended by rewriting the subsection to read as follows:

"(1) Any member may retire upon written application to the Board of Trustees setting forth at what time, as of the first day of a calendar month, not less than 30 days nor more than 90 days subsequent to the execution and filing thereof, he desires to be retired: Provided, that the said member at the time so specified for his retirement shall have attained the age of 60 years and have at least five years of creditable service or shall have completed 30 years of creditable service, or if a uniformed policeman or fireman, he shall have attained the age of 55 years and have at least five years of creditable service."

Sec. 4. G.S. 128-27(b6)(1) is amended by deleting the words "", regardless of his years of creditable service.","

Sec. 5. G.S. 143-166(y) is amended by rewriting the first paragraph thereof to read as follows:

"(y) Any member may retire on a basic service retirement allowance who: has attained 50 years of age and has completed 15 or more years of creditable service; or has completed 30 or more years of creditable service; or has attained 55 years of age and has completed five or more years of creditable service."

Sec. 6. G.S. 135-57(a) is amended by rewriting the subsection to read as follows:

"(a) Any member on or after January 1, 1974, who has attained his fiftieth birthday and five years of membership service may retire upon written application to the Board of Trustees setting forth at what time, as of the first
day of a calendar month, not less than 30 days nor more than 90 days subsequent to the execution and filing thereof, he desires to be retired."

Sec. 7. Article 4 of Chapter 135 is amended by adding a new section to read as follows:

"§ 135-72. Coordination of benefits.—(a) Members who are appointed to serve as a justice, judge or magistrate in the United States Courts shall not be eligible for benefits under this Article while actively serving as a justice, judge or magistrate in the United States Courts.

(b) Should a retired former member be appointed to serve as a justice, judge or magistrate in the United States Courts or be in receipt of a retirement allowance from service as a justice, judge or magistrate in the United States Courts, his retirement allowance provided under the provisions of this Article shall be reduced so that the sum of his retirement allowance and the salary or retirement allowance from service as a justice, judge or magistrate in the United States Courts does not exceed the salary for the office last held by the retired member in the General Court of Justice of North Carolina. Provided, however, that under no circumstances will the retired member's retirement allowance be reduced below the amount of his annuity resulting from his accumulated contributions."

Sec. 8. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of October, 1981.

H. B. 1062

AN ACT TO INCREASE THE AMOUNT OF INCOME A RETIREE OVER AGE 62 MAY EARN AS A PUBLIC EMPLOYEE BEFORE REDUCING A SERVICE RETIREMENT ALLOWANCE FROM THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM AND LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 135-3(7)e. is amended in the first sentence thereof by deleting the words "average final compensation" and inserting in lieu thereof the words "compensation received for the 12 months of service prior to retirement".

Sec. 2. G.S. 128-24(4)d. is amended in the first sentence thereof, between the word "allowance" and the word "and", by inserting the words "at the time of retirement" and further, by deleting the words "average final compensation" and inserting in lieu thereof the words "compensation received for the 12 months of service prior to retirement".

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of October, 1981.
The General Assembly of North Carolina enacts:

Section 1. G.S. 128-27(d3) is amended by rewriting the caption and the language preceding the first colon to read:

“(d3) Allowance on Disability Retirement of Persons Retiring on or after July 1, 1971, but prior to July 1, 1982. Upon retirement for disability, in accordance with subsection (c) of this section on or after July 1, 1971, but prior to July 1, 1982, a member shall receive a service retirement allowance if he has attained the age of 65 years; otherwise he shall receive a disability retirement allowance which shall be computed as follows:”.

Sec. 2. G.S. 128-27 is amended by the addition of a new subsection immediately after (d3) to read:

“(d4) Allowance on Disability Retirement of Persons Retiring on or after July 1, 1982. Upon retirement for disability, in accordance with subsection (c) of this section on or after July 1, 1982, a member shall receive a service retirement allowance if he has qualified for an unreduced service retirement allowance; otherwise the allowance shall be equal to a service retirement allowance calculated on the member’s average final compensation prior to his disability retirement and the creditable service he would have had had he continued in service until the earliest date on which he would have qualified for an unreduced service retirement allowance.”

Sec. 3. G.S. 135-5(d3) is amended by rewriting the first four lines to read:

“(d3) Allowance on Disability Retirement of Persons Retiring on or after July 1, 1971, but prior to July 1, 1982. Upon retirement for disability, in accordance with subsection (c) of this section on or after July 1, 1971, but prior to July 1, 1982, a member shall receive a service retirement allowance if he has attained the age of 65 years; otherwise he shall receive a disability retirement allowance which shall be computed as follows:”.

Sec. 4. G.S. 135-5 is further amended by the addition of a new subsection immediately after (d3) to read:

“(d4) Allowance on Disability Retirement of Persons Retiring on or after July 1, 1982. Upon retirement for disability, in accordance with subsection (c) of this section on or after July 1, 1982, a member shall receive a service retirement allowance if he has qualified for an unreduced service retirement allowance; otherwise the allowance shall be equal to a service retirement allowance calculated on the member’s average final compensation prior to his disability retirement and the creditable service he would have had had he continued in service until the earliest date on which he would have qualified for an unreduced service retirement allowance.”

Sec. 5. G.S. 135-60 is amended by rewriting subsection (a) to read:

“(a) Upon retirement for disability in accordance with G.S. 135-59, a member shall receive a disability retirement allowance computed and payable as provided for service retirement in G.S. 135-58(a) except that the member’s
creditable service shall be taken as the creditable service he would have had had he continued in service to the earliest date he could have retired on an unreduced service retirement allowance as a judge in the same division of the General Court of Justice in which he was serving on his disability retirement date."

Sec. 6. G.S. 143-66(y) is amended by deleting at the end of the fifth paragraph the words "his 55th birthday" and substituting therefor the words "the earliest date on which he would have qualified for an unreduced service retirement allowance."

Sec. 7. This act shall become effective July 1, 1982.

In the General Assembly read three times and ratified, this the 9th day of October, 1981.

H. B. 1341

CHAPTER 981

AN ACT TO GRANT A SIX AND SIX-TENTHS PERCENT INCREASE IN THE RETIREMENT ALLOWANCES OF BENEFICIARIES IN THE NORTH CAROLINA LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM PAYABLE BEGINNING JANUARY 1, 1982, AND TO MAKE A TECHNICAL CORRECTION IN THE DEATH BENEFIT PLAN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 128-27 is amended by adding a new subsection (y) to read as follows:

"(y) Notwithstanding the foregoing provisions, the increase in allowance to each beneficiary on the retirement rolls as of July 1, 1980, which shall become payable on January 1, 1982, as otherwise provided in G.S. 128-27(h), shall be the percentage available therefrom plus an additional six and six-tenths percent (6.6%); provided that in no case shall the increase exceed a total of seven percent (7%). The provisions of this subsection shall apply also to the allowance of a surviving annuitant of the beneficiary."

Sec. 2. G.S. 128-27(1) is amended by inserting a sentence after the title and before the first sentence to read:

"The provisions of this subsection shall become effective for any employer only after an agreement to that effect has been executed by the employer and the Director of the Retirement System."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of October, 1981.
CHAPTER 982    Session Laws—1981

S. B. 627    CHAPTER 982
AN ACT TO EXEMPT CERTAIN SALES MADE BY FRATERNAL ORGANIZATIONS FROM THE SALES AND USE TAX.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.13(35) is rewritten in its entirety, to read as follows:
"(35) Sales by a nonprofit civic, charitable, educational, scientific, literary or fraternal organization continuously chartered or incorporated within North Carolina for at least two years when such sales are conducted only upon an annual basis for the purpose of raising funds for its activities, and when the proceeds thereof are actually used for such purposes; provided, however, that no such sale shall be exempt if not actually consummated within 60 days after the first solicitation of any sale made during said organization’s annual sales period."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of October, 1981.

S. B. 755    CHAPTER 983
AN ACT TO REVISE THE RESIDENCE DISTRICTS FOR THE WAKE COUNTY BOARD OF COMMISSIONERS.

The General Assembly of North Carolina enacts:

Section 1. The Wake County Board of Commissioners consists of seven members.

Sec. 2. Wake County is divided into seven residence districts for elections to the Wake County Board of Commissioners. In accordance with Option D, G.S. 153A-58(3)d., the members shall reside in and represent the districts according to the apportionment plan adopted in this act, but the qualified voters of the entire county shall nominate all candidates for and elect all members of the board.

Sec. 3. The following seven residence districts are established for the purpose of election to the Wake County Board of Commissioners:

(1) District 1 shall consist of the following precincts: Wake Forest-Rolesville, Little River-Mitchell’s Mill, Little River-Zebulon, Mark’s Creek-Eagle Rock, Mark’s Creek-Wendell, St. Matthew’s #1, #2, #3, and #4, and Neuse River.

(2) District 2 shall consist of the following precincts: St. Mary’s-Auburn, St. Mary’s-Garner, St. Mary’s #3, #4, #5, and #6, Panther Branch, Middle Creek-Five Points, Middle Creek-Fuquay, Holly Springs, Buckhorn, and Raleigh #21.

(3) District 3 shall consist of the following precincts: White Oak #1 and #2, Cary #1, #2, #3, #4, and #5, Cedar Fork, Meredith, and Leesville.

(4) District 4 shall consist of the following precincts: Swift Creek, Raleigh #1, #2, #3, #24, #27, #31, #32, and #41.

(5) District 5 shall consist of the following precincts: Raleigh #9, #13, #14, #19, #20, #22, #25, #26, #28, #34, #35, and #40.
Section 4 (a). For the Wake County Board of Commissioners, commissioners shall serve and be elected as follows:

(1) For District 1, J. T. Knott shall serve until December 6, 1982. A commissioner shall be elected in 1982 and quadrennially thereafter for a four-year term.

(2) For District 2, Stuart Adcock shall serve until December 6, 1982. A commissioner shall be elected in 1982 and quadrennially thereafter for a four-year term.

(3) For District 3, Robert Heater shall serve until December 6, 1982. A commissioner shall be elected in 1982 and quadrennially thereafter for a four-year term.

(4) For District 4, Elizabeth Cofield shall serve until December 3, 1984. A commissioner shall be elected in 1984 and quadrennially thereafter for a four-year term.

(5) For District 5, Betty Ann Knudsen shall serve until December 3, 1984. A commissioner shall be elected in 1984 and quadrennially thereafter for a four-year term.

(6) For District 6, Larry Zieverink shall serve until December 6, 1982. A commissioner shall be elected in 1982 for a two-year term. A commissioner shall be elected in 1984 and quadrennially thereafter for a four-year term.

(7) For District 7, Edmund Aycock shall serve until December 6, 1982. A commissioner shall be elected in 1982 and quadrennially thereafter for a four-year term.

(b) Whenever the Wake County Board of Elections divides a precinct into two or more precincts, they shall remain in the district specified in subsection (a) of this section. Whenever the Wake County Board of Elections combines two or more precincts which are in the same district, they shall remain in the district specified in subsection (a) of this section. Whenever the Wake County Board of Elections changes the boundary between two or more precincts, all of which are in the same district, they shall remain in the district specified in subsection (a) of this section.

(c) Whenever the Wake County Board of Elections changes the boundaries of precincts or combines precincts in a manner not specified in subsection (b) of this section, the Board of Commissioners of Wake County may by resolution adjust the boundaries of an electoral district accordingly, but no such change shall affect the right of an incumbent to complete a term.

Section 5. Election to the Wake County Board of Commissioners shall be on a partisan basis, and conducted in accordance with Chapter 163 of the General Statutes. Vacancies shall be filled in accordance with law.

Section 6. Chapter 1034, Session Laws of 1957, and Chapters 792 and 1223, Session Laws of 1959, are repealed.

Section 7. Notwithstanding Section 2 or 3 of this act, Betty Ann Knudsen may continue to serve on the Board of Commissioners for District 5 until December 3, 1984, as long as she resides in Wake County.
CHAPTER 983  Session Laws—1981

Sec. 8. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 9th day of October, 1981.

H. B. 1065  CHAPTER 984
AN ACT TO CLARIFY THE SCOPE OF THE PARTIAL SALES TAX EXEMPTION FOR CERTAIN FARM EQUIPMENT.

Whereas, Chapter 801, Section 73 of the 1979 Session Laws made certain items of farm equipment subject to the 1%/80 maximum sales tax; and
Whereas, the sponsors of that legislation intended to include all on-farm feed and grain storage facilities in that classification; and
Whereas, the law has been implemented in a manner contrary to the intent of the legislation, causing undue hardship and uncertainty among farmers and sellers of farm equipment; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.4(1)c. is amended by inserting the punctuation and word “, feed” after the word “grain” wherever the same appears therein.
Sec. 2. G.S. 105-164.4(1)p. is amended by deleting the word “swine” and inserting the word “livestock” in lieu thereof wherever the same appears therein.
Sec. 3. This act is effective upon ratification and applies to all sales made on and after July 1, 1979.
In the General Assembly read three times and ratified, this the 9th day of October, 1981.

H. B. 1408  CHAPTER 985
AN ACT TO AUTHORIZE ASHE AND ALLEGHANY COUNTIES TO PRIVATELY SELL OR LEASE REAL ESTATE OWNED, OR THEREAFTER OWNED BY IT, AS AN INDUSTRIAL PARK, OR FOR THE PURPOSE OF AN INDUSTRIAL DEVELOPMENT, AND AUTHORIZE ACQUISITION OF REAL PROPERTY FOR SUCH PURPOSE.

The General Assembly of North Carolina enacts:

Section 1. A county is exempt from all provisions, restrictions and limitations as to methods and procedures required to effectuate leases or sales of real estate provided for in Article 12, Chapter 160A, of the General Statutes in connection with any lease or sale of real estate made by it, as an industrial park, or for industrial development.

Sec. 2. A county is authorized to acquire, by purchase, devise, exchange, or gift, any real property or any interest in real property for the purpose of industrial development. The power of condemnation may not be used for such acquisition.

Sec. 3. (a) This act is effective with respect to purchase, sale or lease only if such purchase, sale or lease is given prior approval by a unanimous resolution of the Board of County Commissioners authorizing such purchase, lease or sale.

(b) Such lease or sale may be for cash or with deferred payments secured by a Purchase Money Deed of Trust. It is the intent that leases and sales may be
negotiated and consummated without further formality other than the required resolution by the County Board of Commissioners on all terms as negotiated.

(c) In purchasing any real property under the authority of Section 2 of this act, the taxing power of a county is not and may not be pledged directly or indirectly to secure any moneys due to the seller or any other person but the county may otherwise acquire the property subject to any security interest, with the approval of the Local Government Commission.

Sec. 4. This act applies to Ashe and Alleghany counties only.

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of October, 1981.

H. B. 1410  CHAPTER 986

AN ACT TO DIRECT THE BOARD OF EDUCATION OF THE HICKORY ADMINISTRATIVE SCHOOL UNIT TO PAY ITS TEN-MONTH PERSONNEL ON OR BEFORE THE THIRTEENTH DAY OF EACH MONTH.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of Chapter 115C of the General Statutes, the Board of Education of the Hickory Administrative School Unit shall pay personnel who are employed on a ten-month basis on or before the thirteenth day of each month during which they are employed.

Sec. 2. This act shall become effective January 1, 1982.

In the General Assembly read three times and ratified, this the 9th day of October, 1981.

H. B. 1412  CHAPTER 987

AN ACT TO AMEND CHAPTER 808 OF THE SESSION LAWS OF THE 1981 REGULAR SESSION OF THE GENERAL ASSEMBLY OF NORTH CAROLINA, BEING A PROPOSED AMENDMENT TO THE NORTH CAROLINA CONSTITUTION, TO CLARIFY PROVISIONS WHICH WOULD AUTHORIZE THE GENERAL ASSEMBLY TO ENACT LAWS WITH RESPECT TO THE FINANCING OF SEAPORTS AND AIRPORTS LOCATED OUTSIDE THE STATE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 808 of the Session Laws of the 1981 Regular Session of the General Assembly of North Carolina is hereby amended by deleting from subsection (1) of the proposed new Section 11 to be added to Article V of the North Carolina Constitution the phrase

"and, where the same shall contribute directly to the utilization of seaports and airports within the State or outside the State, and"

and by substituting therefor the following phrase

"$, and outside the State where the same will contribute directly to the utilization of seaports and airports within the State, and".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of October, 1981.
CHAPTER 988 Session Laws—1981

H. B. 1413 CHAPTER 988
AN ACT TO AMEND CHAPTER 856 OF THE SESSION LAWS OF THE 1981 REGULAR SESSION OF THE GENERAL ASSEMBLY OF NORTH CAROLINA RELATING TO THE NORTH CAROLINA STATE PORTS AUTHORITY TO AMEND THE EFFECTIVE DATE THEREOF.

The General Assembly of North Carolina enacts:

Section 1. Section 7 of Chapter 856 of the Session Laws of the 1981 Regular Session of the General Assembly of North Carolina is hereby amended to read as follows:

"Sec. 7. The provisions of this act shall become effective upon ratification, except for the provisions of Section 2 of this act, which shall become effective upon there becoming effective an amendment to the North Carolina Constitution authorizing the General Assembly to enact laws dealing with the subject matter of said Section 2."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of October, 1981.

H. B. 1276 CHAPTER 989
AN ACT TO AMEND ARTICLE 24A OF CHAPTER 58 OF THE GENERAL STATUTES, RELATING TO MUTUAL BURIAL ASSOCIATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-241.7(2)(b) is rewritten to read:

"A vacancy occurring on the Commission after December 31, 1976, because of the expiration of the term of a Commission member, (other than the Commission member appointed by the Governor, as hereinafter provided), shall be selected by the submission by the North Carolina Mutual Burial Association Commission of the names of two persons. Those names shall be submitted on a printed ballot to each Burial Association operator in the State and no Burial Association operator shall be entitled to more than one vote."

Sec. 2. G.S. 58-241.7(2)(a), (2)(c), and (3) are repealed.

Sec. 3. G.S. 58-241.7(2)(d) is rewritten to read:

"A vacancy occurring on the Commission after December 31, 1976, because of the resignation, death or removal for cause of a member of the Commission (other than the Commission member appointed by the Governor as hereinafter provided), shall be filled within 90 days of the date of the occurrence of the vacancy by the selection of two names by the North Carolina Mutual Burial Association Commission and the submission of those names for voting on a printed ballot to each Burial Association operator in the State, and no Burial Association operator shall be entitled to more than one vote."

Sec. 4. G.S. 58-241.9, Article 2, is amended by adding at the end thereof the following:

"Provided, further, that Mutual Burial Associations organized and operating pursuant to this Article may offer for sale to its members in good standing, funeral benefits payable only in cash in excess of two hundred dollars ($200.00), but those sales shall be subject to all applicable insurance laws of this State and shall in no manner be subject to the provisions of this Article or impair whatsoever funds heretofore or hereafter collected and held by that Association"
pursuant to this Article. All mutual burial association policies heretofore or hereafter sold in this State in an amount of two hundred dollars ($200.00) or less shall continue to be administered by the Burial Association Administrator and shall be subject to all provisions of this Article.”

Sec. 5. Any mutual burial association or insurance company operating pursuant to the laws of any state of the United States other than North Carolina, shall have the authority to purchase the assets of, to merge or consolidate with a North Carolina chartered mutual burial association provided the foreign mutual burial association or insurance company complies with all laws of North Carolina, including Chapter 58 of the General Statutes, if an insurance company, applicable to the purchase, merger or consolidation of corporations and provided that the purchasing, merging or consolidating foreign mutual burial association or insurance company complies with rules promulgated by the North Carolina Mutual Burial Association Commission to protect the interest of members of the North Carolina Burial Associations (the authority for that promulgation being given by this act) prior to the purchase, merger or consolidation of a North Carolina Mutual Burial Association.

Sec. 6. G.S. 58-241.11 is amended by striking the phrase “fifty dollars ($50.00)” and substituting the phrase “one hundred dollars ($100.00)”.

Sec. 7. Section 6 of this act shall become effective July 1, 1981. The remaining sections are effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of October, 1981.

H. B. 1356  CHAPTER 990
AN ACT TO INCREASE LICENSE FEES FOR HEARING AID DEALERS AND FITTERS TO ENABLE THE BOARD TO CONTINUE TO BE SELF-SUSTAINING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 93D-5(a) is amended by striking out of the fourth line thereof the words and number “fifty dollars ($50.00)” and inserting in lieu thereof the words and number “one hundred dollars ($100.00)”.

Sec. 2. G.S. 93D-6 is amended by striking out of the tenth line thereof the words and number “fifty dollars ($50.00)” and inserting in lieu thereof the words and number “one hundred dollars ($100.00)”.

Sec. 3. G.S. 93D-9(e) is amended by rewriting the last line to read “one hundred dollars ($100.00)”.

Sec. 4. G.S. 93D-11 is amended by striking out of the second line thereof the words and number “fifty dollars ($50.00)” and inserting in lieu thereof the words and number “one hundred dollars ($100.00)”.

Sec. 5. G.S. 93D-13(b) is amended by striking out of the seventh line thereof the words and number “fifty dollars ($50.00)” and inserting in lieu thereof the words and number “one hundred dollars ($100.00)”.

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of October, 1981.
CHAPTER 991  Session Laws—1981

H. B. 1380  CHAPTER 991
AN ACT TO ALLOW THE TOWN OF BRIDGETON TO COLLECT ON MOTOR VEHICLES A TAX OF NOT MORE THAN FIVE DOLLARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-97(a) is amended by adding immediately after the words "Town of Stoneville" each time they appear the words ", Town of Bridgeton".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of October, 1981.

H. B. 1387  CHAPTER 992
AN ACT TO AUTHORIZE THE CITY OF RALEIGH TO EXERCISE CERTAIN LAND ACQUISITION AND DISPOSAL PROCEDURES.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Raleigh, Chapter 1184 of the Session Laws of 1949, is hereby amended by adding a new section, 2.14(76), to read as follows:

"Sec. 2.14(76). Authorization to exercise certain land acquisition and disposal procedures and development powers, and to participate in economic development projects.

(a) Definition. An economic development project means an economic capital development project within a certain defined area or areas of the city as established by the city council, comprising one or more lots, buildings, or other improvements and including any public or private facilities. Said project may include programs or facilities for improving downtown redevelopment, 'pocket of poverty' or other federal or State assistance programs which the city council determines to be in need of economic capital development or revitalization and which qualify for capital assistance under applicable federal or State programs.

(b) Authorization.

(1) In addition to any other authority granted by law, the City of Raleigh may accept grants, expend funds, make grants or loans, acquire property and participate in capital economic development projects which the city council determines will enhance the economic development and revitalization of the city in accordance with the authority granted herein. Such project may include both public and private lots, buildings or facilities financed in whole or in part by federal or State grants (including but not limited to urban development action grants) and may include any capital expenditures which the city council finds necessary to comply with conditions in any federal or State grant agreements and which the city council finds will complement the project and improve the public tax base and general economy of the city.

Such projects may be partially financed with city funds received from federal or State sources and being granted or loaned to the private owner for said construction or renovation; in addition, other city funds from any sources may be used for acquisition, construction, leasing and operation of facilities by the city for the general public and for capital
improvements to public facilities which will support and enhance the private facilities and the general economy of the city.

(2) When the city council finds that it will promote the economic development or revitalization in the city, the city may acquire, construct, and operate or participate in the acquisition, construction, ownership and operation of an economic development project or of specific buildings or facilities within such a project and may comply with any State or federal government grant requirements in connection therewith. The city may enter into binding contracts with one or more private parties or governmental units with respect to acquiring, constructing, owning or operating such a project. Such a contract may, among other provisions, specify the responsibilities of the city and the developer or developers and operators or owners of the project, including the financing of the project. Such a contract may be entered into before the acquisition of any real property necessary to the project by the city or the developer or other parties.

(c) Property acquisition. An economic development project may be constructed on property acquired by the developer or developers, or on property directly acquired by the city, or on property acquired by the Redevelopment Commission while exercising the powers, duties and responsibilities pursuant to G.S. 160A-505.

(d) Property disposition. In connection with an economic development project, the city may convey interests in property owned by it, including air rights over public facilities, as follows:

(1) If the property was acquired under the urban redevelopment law, the property interests may be conveyed in accordance with said law.

(2) If the property was acquired by the city directly, the city may convey property interests by any procedure set forth in its city charter or the general law or, by private negotiation or sale.

(e) Construction of the project. A contract between the city and the developer or developers may provide that the developer or developers shall be responsible for the construction of the entire economic development project. If so, the contract shall include such provisions as the city council deems sufficient to assure that any public facilities included in the project meet the needs of the city and are constructed at a reasonable price. Any funds loaned by the city pursuant to this paragraph to a private developer or developers and used by said developer or developers in the construction of a project hereunder on privately owned property, shall not be deemed to be an expenditure of public money.

(f) Operation. The city may contract for the operation of any public facility or facilities included in an economic development project by a person, partnership, firm or corporation, public or private. In addition, the city, upon consideration, may contract through lease or otherwise whereby it may operate privately constructed parking facilities to serve the general public. Such a contract shall include provisions sufficient to assure that any such facility or facilities are operated for the benefit of the citizens of the city."

Sec. 2. Chapter 6 of the 1840-41 Private Laws, as amended by Chapter 98, Public-Local Laws of 1939, Chapter 361, Session Laws of 1973, and Chapter 711, Session Laws of 1981, is further amended in Section II by adding immediately after the first sentence the following:
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"Any resident of Wake County shall be eligible to serve on the Board of Trustees of Rex Hospital."

Sec. 3. This act is effective upon ratification. Section 1 of this act shall expire on June 30, 1982, but such expiration shall not affect the validity of any action taken on or before that date.

In the General Assembly read three times and ratified, this the 9th day of October, 1981.

H. B. 1390 CHAPTER 993

AN ACT TO AUTHORIZE THE ISSUANCE OF THREE HUNDRED MILLION DOLLARS IN BONDS OF THE STATE TO PROVIDE FUNDS FOR ENVIRONMENTAL IMPROVEMENT THROUGH GRANTS TO UNITS OF GOVERNMENT FOR CONSTRUCTION AND IMPROVEMENT OF WASTEWATER TREATMENT WORKS, WASTEWATER COLLECTION SYSTEMS AND WATER SUPPLY SYSTEMS.

The General Assembly of North Carolina enacts:

Section 1. Short title. This act shall be known and may be cited as the "North Carolina Clean Water Bond Act of 1981".

Sec. 2. Purpose. The problem of polluted and befouled lakes, streams and estuaries in the State of North Carolina, already serious and destined to grow worse unless immediate action is taken, is a matter of vital concern to the General Assembly. A major factor in the pollution problem is the discharge of waste to the waters of this State by municipalities and other population concentrations from wastewater systems that are inadequate, antiquated and, in some instances, nonexistent.

A problem of equally pressing importance is that of ensuring to the citizens of this State an adequate supply of pure water for domestic consumption. The steady growth of population and an increasingly urbanized population have created a constantly rising demand for water at the same time that the available sources of pure water are decreasing. The situation thus created has overtaxed the capacity of many existing water supply systems and has also led to a proliferation of small water supply systems which are costly to construct and operate and which frequently do not provide a desirable quantity or quality of water.

Although most of these units of government that are faced with these problems have made strenuous efforts to improve and expand existing facilities to meet the public need, many have found securing the necessary funds to be difficult, if not impossible. It is the intent and purpose of the General Assembly by this act to provide for the issuance of three hundred million dollars ($300,000,000) in bonds of this State, and to provide that the proceeds realized from the sale of the bonds shall be allocated primarily as grants to local units of government to stimulate the construction and improvement of wastewater treatment works, wastewater collection systems and water supply systems to provide a clean and healthful environment, an abundant supply of pure water, and continued economic growth and development.

Although the funds derived from the sale of the bonds authorized by this act shall be used primarily to encourage and assist local government units to meet their responsibilities, it is not intended nor is it possible for the State to
shall mean General 143-215. G.S. given by systems. improvements, extensions, Development Community benefit greatest and constructing of its General with charged operation and and given responsive governments, water supply of its property pursuant to of Department functions, or requires: herein funds The General "Department (1) (2) "Construction cost" shall mean the actual cost of planning, designing, and constructing any project for which a grant is made under this act including planning; environmental assessment; sewer system analysis; engineering; legal, fiscal, administrative and contingency costs for water supply systems, wastewater collection systems, and wastewater treatment works and any extensions, improvements, remodeling, additions, or alterations to existing systems. In addition construction cost shall include any fees payable to the Department of Natural Resources and Community Development pursuant to G.S. 143-215.3(a)(1) for review of grant applications and fees for inspections pursuant to Section 15 of this act. Such costs may include the cost of real property as provided for in this act, but shall not include recurring expenditures for administration, repairs, operation and maintenance of any wastewater or water supply systems.

(3) "Department of Administration" shall mean the North Carolina Department of Administration created by Article 9 of Chapter 143B of the General Statutes, or, should said department be abolished or otherwise divested of its functions under this act, the public body succeeding it in its principal functions, or upon which are conferred by law the rights, powers and duties given by this act to said department.

(4) "Receiving agency" shall mean the Division of Health Services with relation to receipt of applications for grants for water supply systems and the Department of Natural Resources and Community Development with relation

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assume those responsibilities. They must and properly ought to be met by local governments, responsive to the needs and demands of their citizens, through forceful and appropriate action to resolve existing environmental problems and to meet those that the future portends.

The funds to be derived from the sale of the bonds authorized by this act are sufficient to meet no more than a fraction of the needs which now exist and will arise in the immediate future. For this reason, although public necessity will be the primary consideration in granting funds, great emphasis must be placed on the availability of matching grants and loans from other sources; the creation of efficient systems of regional wastewater disposal and regional water supply; and the willingness and ability of local government units to meet their responsibilities through sound fiscal policies, creative planning and efficient operation and management.

The General Assembly directs, therefore, that those agencies of this State charged with administration of this act, in order to achieve the wisest use of the funds herein provided for, shall exercise the utmost care and judgment in approving grants under this act, for which the ultimate criterion shall be the greatest benefit to the greatest number.

Sec. 3. Definitions. As used in this act, unless the context otherwise requires:

(1) “Department of Natural Resources and Community Development” shall mean the North Carolina Department of Natural Resources and Community Development created by Part 1 of Article 7 of Chapter 143B of the General Statutes, or, should said department be abolished or otherwise divested of its functions under this act, the public body succeeding it in its principal functions, or upon which are conferred by law the rights, powers and duties given by this act to said department.

(2) “Construction cost” shall mean the actual cost of planning, designing, and constructing any project for which a grant is made under this act including planning; environmental assessment; sewer system analysis; engineering; legal, fiscal, administrative and contingency costs for water supply systems, wastewater collection systems, and wastewater treatment works and any extensions, improvements, remodeling, additions, or alterations to existing systems. In addition construction cost shall include any fees payable to the Department of Natural Resources and Community Development pursuant to G.S. 143-215.3(a)(1) for review of grant applications and fees for inspections pursuant to Section 15 of this act. Such costs may include the cost of real property as provided for in this act, but shall not include recurring expenditures for administration, repairs, operation and maintenance of any wastewater or water supply systems.

(3) “Department of Administration” shall mean the North Carolina Department of Administration created by Article 9 of Chapter 143B of the General Statutes, or, should said department be abolished or otherwise divested of its functions under this act, the public body succeeding it in its principal functions, or upon which are conferred by law the rights, powers and duties given by this act to said department.

(4) "Receiving agency" shall mean the Division of Health Services with relation to receipt of applications for grants for water supply systems and the Department of Natural Resources and Community Development with relation

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to receipt of applications for grants for wastewater treatment works or wastewater collection systems.

(5) "Division of Health Services" shall mean the Division of Health Services of the North Carolina Department of Human Resources, or should said division be abolished or otherwise divested of its functions under this act, the public body succeeding it in its principal functions, or upon which are conferred by law the rights, powers and duties given by this act to said division.

(6) "State Treasurer" shall mean the Treasurer of the State of North Carolina as provided in Article III of the Constitution of North Carolina and vested with those powers and duties set forth in Article 6 of Chapter 147 of the General Statutes.

(7) "Unit of government" shall mean any incorporated city, town or village, county, sanitary district, metropolitan sewerage district, water or sewer district, watershed improvement district, water and/or sewer authority, special purpose district, other municipality, or any agency, board, commission, department or political subdivision or public corporation of the State, now or hereafter created or established, empowered to provide water supply systems, wastewater collection systems or wastewater treatment works.

(8) "Wastewater collection system" shall mean a unified system of pipes, conduits, pumping stations, force mains, and appurtenances for collecting and transmitting water-carried human wastes and other wastewater from residences, industrial establishments or any other buildings.

(9) "Wastewater treatment works" shall mean the various facilities and devices used in the treatment of sewage, industrial waste or other wastes of a liquid nature, including the necessary intercepting sewers, outfall sewers, pumping, power, and other equipment and their appurtenances.

(10) "Water supply system" shall mean a public water supply system consisting of facilities and other works for supplying, treating and distributing potable water including, but specifically not limited to: impoundments, reservoirs, wells, intakes, water filtration plants and other treatment facilities, tanks and other storage facilities, transmission mains, distribution piping, pumping equipment and all other necessary appurtenances, equipment and structures.

(11) "Pollution Control Account" shall mean that account of the Clean Water Fund from which shall be made grants to units of government for the construction, improvement, or expansion of wastewater treatment works and wastewater collection systems and for the acquisition of real property or interests in real property necessary for the construction, expansion, or improvement of such works or systems.

(12) "Economic Development Account" shall mean that account of the Clean Water Fund from which shall be made new or supplemental grants to units of government for the construction, improvement, or expansion of wastewater treatment works, wastewater collection systems and water supply systems and for the acquisition of real property or interests in real property necessary for the construction, expansion, or improvement of such works or systems where such works or systems are necessary for industrial growth or expansion.

(13) "Water Supply Systems Account" shall mean that account of the Clean Water Fund from which shall be made grants to units of government for the construction, expansion, or improvements of water supply systems and for
the acquisition of real property or interests in real property necessary for the
collection, expansion, or improvement of water supply systems.

(14) “Contingency Account” shall mean that account of the Clean Water
Fund from which shall be made allocations to meet the administrative expenses
incurred in the administration of this act and to provide funds for new or
supplemental water and wastewater treatment works grants.

Sec. 4. Bond election. (a) North Carolina Clean Water Bonds. Subject to
a favorable vote of a majority of the qualified voters of the State who shall vote
thereon in an election called and held as hereinafter provided, the State
Treasurer is hereby authorized, by and with the consent of the Governor and
Council of State, to issue and sell, at one time or from time to time, bonds of the
State, to be designated “State of North Carolina Clean Water Bonds”, in an
aggregate principal amount not exceeding three hundred million dollars
($300,000,000).

(b) Referendum. The question of the issuance of the three hundred million
dollar ($300,000,000) State of North Carolina Clean Water Bonds shall be
submitted to the qualified voters of the State of North Carolina at an election
to be held on a date not later than December 1, 1983, to be fixed by the
Governor by a proclamation issued by him; provided, that the election herein
provided for shall be held on the same day as the statewide primary or general
election designated by the proclamation]. Notice of the bond election shall be
given by publication at least twice in a newspaper published in each county in
the State or having a general circulation therein, and the election and the
registration of voters therefor shall be held under and in accordance with the
general laws of the State. Absentee ballots shall be authorized in said election.
The State shall reimburse the counties of the State for all necessary expenses
incurred in holding the election and registration therefor, the same to be paid
out of the Contingency and Emergency Fund unless the payment of such
expenses is otherwise expressly provided for. The State Board of Elections shall
cause to be printed and distributed the ballots which are to be used in said
election, which ballots shall be substantially in the following form:

“OFFICIAL BALLOT
THREE HUNDRED MILLION DOLLARS
STATE OF NORTH CAROLINA
CLEAN WATER BONDS

Instructions for Marking Ballot:
(a) To vote in favor of the issuance of the bonds, make a cross (X) mark in the
square opposite the words ‘For the issuance of $300,000,000 State of North
Carolina Clean Water Bonds’.

(b) To vote against the issuance of the bonds, make a cross (X) mark in the
square opposite the words ‘Against the issuance of $300,000,000 State of North
Carolina Clean Water Bonds’.

(c) If you tear or deface or wrongly mark this ballot, return it and get another.

□ FOR the issuance of $300,000,000 State of North
Carolina Clean Water Bonds.
□ AGAINST the issuance of $300,000,000 State of
North Carolina Clean Water Bonds.

__________________ (Facsimile Signature)
Chairman, State Board of Elections.”

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Those voting in the election who are in favor of the issuance of the bonds shall vote by making an X in the square opposite the words "For the issuance of $300,000,000 State of North Carolina Clean Water Bonds".

Those opposed to the issuance of the bonds shall vote by making an X in the square opposite the words "Against the issuance of $300,000,000 State of North Carolina Clean Water Bonds".

Notwithstanding the foregoing provisions of this subsection, voting machines may be used in accordance with rules and regulations prescribed by the State Board of Elections.

If a majority of those voting thereon in the election shall vote in favor of the issuance of the bonds, the bonds shall be issued as hereinbefore provided. In the event a majority of those voting thereon in the election shall vote against the issuance of the bonds, the bonds shall not be issued.

The result of the election shall be canvassed and declared as provided by law for the holding of elections for State officers and the result thereof certified by the State Board of Elections to the Secretary of State of North Carolina, in the manner and at the time provided by the general election laws of the State.

Sec. 5. Issuance of bonds. (a) Terms and conditions. Bonds authorized by this act shall bear such date or dates, shall be serial bonds, and shall mature at such times and in such amounts, not exceeding 30 years from their date or respective dates, and may be made redeemable before maturity, at the option of the State, at such price or prices and under such terms and conditions, and shall bear interest at such rate or rates, all as may be fixed by the State Treasurer with the approval of the Governor and Council of State.

(b) Signatures; form and denomination; registration; reconversion. The bonds issued pursuant to this act shall be signed on behalf of the State of North Carolina by the Governor or shall bear his facsimile signature; shall be signed by the State Treasurer, or shall bear his facsimile signature; shall bear the Great Seal of the State or a facsimile thereof impressed or imprinted thereon; and shall carry interest coupons which shall bear a facsimile of the signature of the State Treasurer. In the event that the bonds shall bear the facsimile signature of the State Treasurer, the bonds shall also be signed by an assistant as designated by the State Treasurer. Should any officer whose signature or facsimile appears on any bonds or coupons cease to be such officer before the delivery of the bonds, such signature or facsimile shall nevertheless have the same validity for all purposes as if the officer had remained in office until delivery. The form and denomination of the bonds shall be as the State Treasurer may determine in conformity with this act, and the bonds shall be subject to registration as is now or hereafter may be provided by law for State bonds, and provision may also be made for the reconversion into coupon bonds of any bonds registered as to both principal and interest.

(c) Manner of sale; expenses. Subject to determination by the Governor and Council of State as to the manner in which the bonds shall be offered for sale whether by publishing notices in certain newspapers and financial journals or by mailing notices or by inviting bids by correspondence or otherwise, the State Treasurer is authorized to sell the bonds at one time or from time to time at the best price obtainable, but in no case for less than par and accrued interest. All expenses incurred in the sale and issuance of the bonds and any bond anticipation notes herein authorized shall be paid from the proceeds of the sale of such bonds or bond anticipation notes.

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The proceeds of sale of the bonds and the bond anticipation notes herein authorized, except the proceeds of bonds the issuance of which has been anticipated by such bond anticipation notes, shall be placed by the State Treasurer in a special fund known as the "Clean Water Fund" and shall be disbursed only for the purposes provided in this act.

(d) Notes; repayment.

(1) By and with the consent of the Governor and Council of State, who shall determine the rate or rates or maximum rate of interest and the date or approximate date of payment, the State Treasurer is hereby authorized to borrow money at the lowest rate of interest obtainable, and to execute and issue notes of the State for the same, but only in the following circumstances and under the following conditions:

a. For anticipating the sale of any bonds to the issuance of which the Governor and Council of State shall have given consent, if the State Treasurer shall deem it advisable to postpone the issuance of the bonds.

b. For the payment of interest upon or any installment of principal of any of the bonds then outstanding, if there shall not be sufficient funds in the State Treasury with which to pay the interest or installment of principal as they respectively become due.

c. For the renewal of any loan evidenced by notes herein authorized.

(2) Funds derived from the sale of bonds herein authorized shall be used in the payment of any bond anticipation notes that may have been issued in anticipation of the sale of bonds and any renewals of such notes; and funds provided by the General Assembly for payment of the interest on or principal of bonds herein authorized shall be used in paying the interest on or principal of any notes and any renewals thereof the proceeds of which shall have been used in paying interest on or principal of the bonds. Interest payments upon the notes may be evidenced by interest coupons in the State Treasurer's discretion.

(e) Coupons receivable in payment, etc. The coupons appertaining to the bonds and notes after maturity shall be receivable in payment of all taxes, debts, dues, licenses, fines and demands of any kind whatever due the State.

(f) Tax exemptions. All of the bonds, notes and coupons authorized by this act shall be exempt from all State, county and municipal taxation or assessment, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, and the interest on the bonds and notes shall not be subject to taxation as to income, nor shall the bonds, notes or coupons be subject to taxation when constituting a part of the surplus of any bank, trust company or other corporation.

(g) Investment in bonds lawful. It shall be lawful for all executors, administrators, guardians and fiduciaries generally, and all sinking fund commissions, to invest any moneys in their hands in said bonds and notes.

(h) Full faith, credit, taxing power pledged. The full faith, credit and taxing power of the State are hereby pledged for the payment of the principal of and the interest on the bonds and notes herein authorized.

Sec. 6. Clean Water Fund. There is hereby created in the Department of Administration a fund to be known as the Clean Water Fund, to be administered by the Department of Administration, which shall be responsible for receipt and disbursement of all moneys as provided in this act.

Sec. 7. Use of bond proceeds; allocation. (a) Grants.
(1) Purpose. All moneys paid into the Clean Water Fund, other than those set aside for administrative expenses and to defray expenses incurred in the sale of the bonds and the issuance of notes herein authorized, shall be used for grants to units of government for the construction of new or the improvement or expansion of existing wastewater treatment works, wastewater collection systems and water supply systems. If the purchase or acquisition of real property constitutes a substantial portion of the necessary construction costs of any project, and if the applicant demonstrates that it is incapable of bearing such costs, the receiving agency, in its sole discretion, may authorize the use of grant funds, in such amount as it shall determine, for such purposes; but if any portion of the project funds shall be a federal grant or loan which may not be used for such purposes, then no grant for such purposes shall be made under this act except as hereinafter provided.

(2) Limitation. a. The maximum grant made under the Water Supply Systems Account and under subsections 7(c)(1) and (2) of the Pollution Control Account of this act shall not exceed twenty-five percent (25%) of the total construction costs of any project or fifty percent (50%) of the nonfederal share, whichever is less, unless a grant of a greater percentage is determined by the receiving agency to be necessary for the project:
   1. To qualify for a federal loan or grant.
   2. To meet an extreme public necessity.
   3. To provide funds for the purchase or acquisition of necessary real property when federal grant or loan funds may not be used for such purposes. In no event shall any grant made under the Water Supply Systems Account or under subsections 7(c)(1) and (2) of the Pollution Control Account of this act exceed thirty percent (30%) of the total construction costs of any project, and to the extent that a grant exceeds twenty-five percent (25%) of project costs, the percentage in excess of twenty-five percent (25%) shall require approval by the Advisory Budget Commission.

b. The maximum grants made under subsection 7(c)(3) of this act alone or in combination with grants made under subsections 7(c)(1) and (2) of this act shall not exceed thirty-seven and one-half percent (37-1/2%) of the total construction cost of any project.

c. The maximum grant made under the Economic Development Account of this act shall not exceed fifty percent (50%) of the total construction cost of any project, fifty percent (50%) of the nonfederal share or five hundred thousand dollars ($500,000), whichever is least.

d. The maximum grant made under the Contingency Account of this act shall not exceed twenty-five percent (25%) of the total construction cost of any project.

e. In no case shall any grants made under the Economic Development Account in combination with grants made under the Pollution Control Account, the Water Supply Systems Account, or the Contingency Account of this act exceed fifty percent (50%) of the total construction cost of any project or fifty percent (50%) of the nonfederal share.

(b) Contingency Account. The Department of Administration, with the concurrence of the Advisory Budget Commission, from time to time shall allocate funds, not to exceed six million dollars ($6,000,000) in the aggregate, from the proceeds of the sale of the bonds herein authorized to a Contingency Account, which shall be maintained and administered as follows:
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(1) Subject to the approval of the Advisory Budget Commission, the Department of Administration may make allocations from the Contingency Account for the following purposes:

a. To provide funds not to exceed one million dollars ($1,000,000) in the aggregate to meet the administrative expenses of the Department of Administration, the Department of State Treasurer, the Division of Health Services, and the Department of Natural Resources and Community Development incurred in the administration of this act in excess of the normal operating expenses of the agencies.

b. To provide funds not to exceed five million dollars ($5,000,000) in the aggregate for new grants or for supplemental water supply systems and wastewater treatment works grants when the Advisory Budget Commission, upon recommendation of the receiving agency and the Department of Administration, determines that there are sufficiently compelling reasons for providing funds from the Contingency Account.

(2) Each agency entitled to receive administrative expense funds from the Contingency Account shall prepare an itemized estimate of administrative funds required for the succeeding fiscal year, and the Division of Health Services, the Department of State Treasurer and the Department of Natural Resources and Community Development shall deliver their estimates to the Department of Administration at least 45 days prior to the beginning of the fiscal year for which the funds are required. The Department of Administration shall determine the administrative expense funds available and, along with its recommendations, shall deliver the estimates of the Division of Health Services, the Department of State Treasurer, the Department of Natural Resources and Community Development and its own estimate, if any, to the Advisory Budget Commission at least 30 days prior to the beginning of the fiscal year for which the funds are required. Any administrative expense funds approved by the Advisory Budget Commission shall be disbursed by the Department of Administration to the appropriate agency. If the administrative expense funds disbursed to any agency shall prove insufficient, it may apply at any time during the fiscal year for additional funds in the manner above provided. If the funds provided in this act for administrative expenses are exhausted, the Department of Administration, with the concurrence of the Advisory Budget Commission, may apply for disbursement to the Contingency Account of funds for administrative expenses from the Contingency and Emergency Fund. Funds in the account for administrative expenses not used to defray agency expenses, other than funds disbursed from the Contingency and Emergency Fund, shall be used for the other purposes of this act. Unused funds in the account for administrative expenses disbursed from the Contingency and Emergency Fund shall be returned to said fund.

(c) Pollution Control Account. The sum of one hundred fifty-four million dollars ($154,000,000) of the proceeds of the sale of bonds authorized by this act shall be allocated to a Pollution Control Account, from which shall be made grants to units of government for the construction, improvement or expansion of wastewater treatment works and wastewater collection systems and, where authorized, for the acquisition of real property or interests in real property necessary for the construction, expansion or improvement of such works or systems. The Department of Administration shall disburse no funds from the Pollution Control Account except upon receipt by it of written approval of the
disbursement from the Department of Natural Resources and Community Development.

(1) Eighty million dollars ($80,000,000) of the funds allocated to the Pollution Control Account shall be used exclusively for the purpose of grants to pay a portion (not to exceed the limitations set forth in subsection 7(a)(2) of this act) of the eligible construction costs of approved wastewater treatment works projects.

(2) The sum of forty million dollars ($40,000,000) allocated to the Pollution Control Account shall be allotted among the various counties of the State in the proportion that the population of each county bears to the total population of the State, as such populations were determined by the 1980 Decennial Census of the United States Department of Commerce, exclusively for grants to the counties or units of government therein for wastewater treatment works or collection system projects.

(3) Thirty-four million dollars ($34,000,000) of the funds allocated to the Pollution Control Account shall be exclusively for the purpose of supplemental grants for wastewater treatment works projects:

a. for which federal grant offers from federal fiscal year 1980 or federal fiscal year 1981 funds for development of detailed plans and specifications have been made prior to October 1, 1981; and

b. where the Governor has determined that the federal cost sharing rate for such projects shall be less than seventy-five percent (75%).

Funds which cannot be utilized for the purpose set forth under subsection 7(c)(3) may be used for new or supplemental wastewater treatment works grants as provided in subsection 7(c)(1) above. If any funds allocated under subsection 7(c)(3) have not been committed as of June 30, 1987, such funds may be utilized for grants under either subsection 7(c)(1) or subsection 7(c)(3) of this act.

(d) Water Supply Systems Account. The sum of sixty million dollars ($60,000,000) of the proceeds of sale of the bonds authorized by this act shall be allocated to a Water Supply Systems Account from which shall be made grants to units of government for the construction, expansion or improvement of water supply systems and, where authorized, for the acquisition of real property or interests in real property necessary for the construction, expansion or improvement of water supply systems. The Department of Administration shall disburse no funds from the Water Supply Systems Account except upon receipt by it of written approval of the disbursement from the Division of Health Services.

(1) Forty million dollars ($40,000,000) of the funds allocated to the Water Supply Systems Account shall be allotted among the various counties of this State in the proportion that the population of each county bears to the total population of the State, as such populations were determined by the 1980 Decennial Census of the United States Department of Commerce, for grants to the counties or units of government therein.

(2) Twenty million dollars ($20,000,000) of the funds allocated to the Water Supply Systems Account shall be used for the purpose of providing grant funds for water supply systems projects generally and not upon a county allotment basis.

(e) Economic Development Account. The sum of eighty million dollars ($80,000,000) of the proceeds of sale of the bonds authorized by this act shall be allocated to an Economic Development Account from which shall be made new
or supplemental grants to units of government where necessary for industrial
growth or expansion. Grants from this account may be made for the
construction, improvement or expansion of wastewater treatment works,
wastewater collection systems, and water supply systems; and for the
acquisition of real property or interests in real property necessary for the
construction, expansion, or improvement of such works or systems. Grants from
this account for wastewater treatment works shall be awarded by the
Department of Natural Resources and Community Development with the
concurrence of the Department of Commerce. Grants from this account for
water supply systems shall be awarded by the Department of Natural Resources
and Community Development with the concurrence of both the Department of
Commerce and the Division of Health Services. Grants from this account shall
be based on the relative financial need of an area, the effect of the grant on
increasing the average wage of the area, the effect of the grant in improving the
economic potential of the area, and the effect of the grant on the number of new
jobs to be provided. The Department of Administration shall disburse no funds
from the Economic Development Account except upon receipt by it of written
approval of the disbursement from the Department of Natural Resources and
Community Development.

Sec. 8. Continuity of grant funds. (a) Any funds uncommitted for grants
as of June 30, 1982, under either Section 7(c) or Section 7(d) of the Clean Water
Bond Act of 1977, shall be allocated thereafter for grants pursuant to this act.
(b) Grant funds under Section 7(c)(1) and (2) of this act and Section 7(d)(1)
and (2) of this act may be administered according to existing rules and
regulations under the Clean Water Bond Act of 1977 until such time as rules
and regulations as provided for in Section 16 of this act shall become effective.
(c) Any funds uncommitted for grants as of June 30, 1987, under Section
7(c)(2) shall be allocated thereafter for grants pursuant to Section 7(c)(1); funds
uncommitted under Section 7(d)(1) shall be allocated for grants after June 30,
1987, pursuant to Section 7(d)(2).
(d) Funds under this act shall be allocated for grants except that any funds
which are uncommitted on June 30, 1992, shall revert to the General Fund.

Sec. 9. Application for grant; environmental assessment; notice; hearing.
(a) Application. All applications for grants for water supply systems shall be
filed with the Division of Health Services and all applications for grants for
wastewater treatment works or wastewater collection systems shall be filed
with the Department of Natural Resources and Community Development.
Every application for a grant from county allotment funds under this act shall
so state and shall identify the county. Every applicant shall also file with the
Department of Administration such information concerning the application as
the Department of Administration may require by rules or regulations adopted
pursuant to this act.

The Department of Administration, the Division of Health Services and
the Department of Natural Resources and Community Development may
develop jointly and adopt a standard form of application for grants under this
act. Any application for construction grants under the Federal Clean Water Act
may be considered as an application for grants under Section 7(c)(1) of this act.
The information required to be set forth in the application shall be sufficient to
permit the respective agencies to determine the eligibility of the applicant and
to establish the priority of the application as set forth in this act.
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Any applicant shall furnish information in addition or supplemental to the information contained in its application upon request by the receiving agency.

(b) Environmental Assessment. Every applicant shall file with its application an assessment setting forth the impact that the project for which grant funds are sought will have upon the environment of the area within which the project is proposed to be located. The assessment shall set forth the impact of the project upon water resources, other natural resources, land use patterns, and such other factors as the Division of Health Services or the Department of Natural Resources and Community Development shall require by duly adopted rules and regulations. Any environmental assessment required as part of an application for construction grants under the Federal Clean Water Act may satisfy the requirements of this provision. If, after reviewing the environmental assessment, the Division of Health Services or the Department of Natural Resources and Community Development concludes that an environmental impact statement is required, then the application will receive no further consideration until a final environmental impact statement has been completed by the applicant and approved by the receiving agency.

(c) Notice. Within 60 days after the receipt of any application filed pursuant to Section 7(c)(2) or Section 7(d)(1), the receiving agency shall give notice of the application, sufficient to describe the nature, location and the extent of the project for which grant funds are sought, as follows:

1. Notice by first-class mail to the governing body or chief executive officer of every local government unit located within the county or counties in which the project for which grant funds are sought is located or proposed to be located.

2. Notice by publication once in a newspaper published or having general circulation within the county or counties in which the project for which grant funds are sought is located or proposed to be located.

(d) Hearings. A public hearing shall be held by the receiving agency on any application filed pursuant to Section 7(c)(2) or Section 7(d)(1) in accordance with the provisions of this subsection, upon written request received by the agency within 15 days after mailing the notice required by this section from any person named in subsection (c)(1) of this section. A public hearing may be held by the receiving agency upon written request received within 15 days after the date of publication of the notice from any citizen or taxpayer who is a resident of the county or counties in which the project is or is proposed to be located if it appears that the public interest will be served by such hearing. The written request shall set forth each objection to the proposed project or other reasons for requesting a hearing on the application and shall contain the name and address of the person(s) submitting it. The receiving agency shall consider all written objections to the proposed project and other statements along with the application, including any significant adverse effects that the proposed project may have on the environment, and shall determine if the public interest will be served by a hearing. The determination by the receiving agency shall be conclusive; but all written requests for a hearing shall be retained as a permanent part of the records pertaining to the application, whether or not the request is granted. A hearing may be held regarding any application filed pursuant to Section 7(c)(1) or Section 7(d)(2) if the receiving agency determines that the public interest will be served by such a hearing.
Sec. 10. Eligibility. No applicant shall be eligible for a grant under this act unless it shall demonstrate to the satisfaction of the receiving agency that:

1. The applicant is a unit of government as defined in this act.
2. The applicant has the financial capacity to provide its share of the project funds.
3. The applicant has substantially complied or will substantially comply with all applicable laws, rules, regulations, and ordinances, federal, State and local.
4. The applicant has agreed by official resolution to adopt and place into effect on or before completion of the project a schedule of fees and charges which will provide adequate funds for proper operation, maintenance and administration of the project.

Sec. 11. Priorities. (a) Determination. Determination of priorities to be assigned each eligible application shall be made quarterly by the appropriate receiving agency during each fiscal year. Every eligible application filed pursuant to Section 7(c)(1), Section 7(d)(2), or Section 7(e) shall be considered by the receiving agency with every other application filed pursuant to Section 7(c)(1), Section 7(d)(2), or Section 7(e), respectively, and eligible for consideration during the same priority period, to determine the priority to be assigned to such application. Every eligible application filed pursuant to Section 7(c)(2) or Section 7(d)(1) shall be considered by the receiving agency with every other application filed from within the same county pursuant to Section 7(c)(2) or Section 7(d)(1), respectively, and eligible for consideration during the same priority period, to determine the priority to be assigned to such application. Any application which does not contain the information required by this act or regulations adopted by the receiving agency(s) to implement the act shall not be deemed received until such information is furnished by the applicant to the receiving agency.

(b) Priority factors. All applications for grants under this act eligible for consideration during each priority period shall be assigned a priority for grant funds by the receiving agency. In determining priorities, the receiving agency:

1. shall give primary consideration to the public necessity of the project in promoting the public health, safety and welfare; and
2. shall also give consideration to:
   a. the eligibility of the proposed project for federal grants;
   b. the compatibility of the proposed project with the State’s general program of water supply and water pollution control, any applicable regional planning program and the population to be served, and the economic development needs of the area to be served;
   c. the fiscal responsibility of the applicant; and
   d. the need of the applicant for funding assistance.

(c) Any priority system established for construction grants under the Federal Clean Water Act shall satisfy the requirements of this section.
(d) Assignment of priority. A written statement relative to each priority assigned shall be prepared by the agency assigning the priority and shall be attached to the application; and the priority assigned shall be conclusive.
(e) Failure to qualify. Any application filed pursuant to Section 7(c), Section 7(d), or Section 7(e) that does not qualify for a grant as of the priority period in which the application was eligible for consideration by reason of the priority assigned the application shall be considered for a grant during the next
succeeding priority period upon request of the applicant. If such application should fail to qualify for a grant during four consecutive priority periods by reason of the priority assigned, the application shall receive no further consideration. An applicant may file a new application for a grant at any time, and may amend any pending application to include data or information which would tend to qualify the application for a higher priority.

Sec. 12. Withdrawal of grant commitment. Failure of an applicant, within one year of the date of acceptance of a grant award, to (1) arrange for necessary financing of the proposed project, or (2) to award a contract for the construction of the proposed project, shall constitute sufficient cause for withdrawal of the grant commitment. Prior to withdrawal of a grant commitment, the appropriate receiving agency shall give due consideration to any extenuating circumstances presented by the applicant as reasons for its failure to arrange necessary financing or to award a contract, and the grant commitment may be extended for an additional period of time if, in the judgment of the receiving agency, such an extension is justified.

Sec. 13. Disbursement of funds. No funds shall be disbursed by the Department of Administration for any grant until it has received from the appropriate receiving agency a certificate of eligibility to the effect that the applicant meets all eligibility criteria, and that notice and hearing requirements of this act have been met.

In the event that the grant payments are to be made in installments, no installment payment shall be disbursed by the Department of Administration until it has received from the appropriate receiving agency a written request for disbursement.

Sec. 14. Payment of grants. The receiving agency, in its sole discretion, may determine whether the payment of any grant made under this act shall be in a lump sum or in installments as progress payments and shall, by adoption of appropriate rules and regulations, provide for the manner of approval and payment of grants.

Sec. 15. Inspection. Inspection of a project for which a grant has been made under this act may be performed by qualified personnel of the Division of Health Services or the Environmental Management Commission or may be performed by qualified professional engineers, registered in this State, who have been approved by the Division of Health Services or the Department of Natural Resources and Community Development, but no person shall be approved to perform inspections who is an officer or employee of the unit of government to which the grant was made or who is an owner, officer, employee or agent of a contractor or subcontractor engaged in the construction of the project for which the grant was made. For the purpose of payment of inspection fees, inspection services shall be included in the term “construction cost” as used in this act.

Sec. 16. Rules and regulations. (a) Adoption. The Department of Administration, the Commission of Health Services and the Environmental Management Commission, in order to accomplish the efficient administration and uniform application of this act, are empowered to adopt, modify and revoke rules of procedure establishing and amplifying the procedures to be followed in the administration of this act and regulations interpreting and applying provisions of this act. To the extent practicable and feasible, uniform rules and
regulations may be jointly adopted, and no rule or regulation jointly adopted may be modified or revoked except upon concurrence of all three agencies.

(b) Approval. The adoption or repeal of rules under this act shall not become effective until approved by the Advisory Budget Commission.

(c) Copies furnished. A copy of its rules and regulations adopted pursuant to this act shall be furnished free of charge by the receiving agency and the Department of Administration to any governmental unit. Any other person shall be entitled to receive a copy upon payment of a reasonable charge for printing or duplication if the receiving agency or Department of Administration shall so require.

Sec. 17. Federal grants and loans. In order to carry out the purpose of this act to secure the greatest benefits possible to the citizens of this State from the funds herein provided for, the Department of Administration, the Commission for Health Services and the Environmental Management Commission are authorized and directed to adopt such rules, regulations and criteria pursuant to and in accordance with this act as are necessary and appropriate to conform to federal requirements for federal grants and loans for any of the purposes set forth in this act. If any applicant for grant funds under this act for a project otherwise eligible for a federal grant or loan fails to qualify for such grant or loan by reason of the failure or refusal of the applicant to meet federal requirements, the receiving agency, in its sole discretion and determination, may refuse the grant applied for under this act. Every grant made pursuant to this act for any project for which federal funds are available and for which the applicant has applied shall be conditional upon approval of the applicant's request for federal funds.

Sec. 18. Annual reports to Advisory Budget Commission. The Department of Administration, the Department of State Treasurer, the Division of Health Services, and the Department of Natural Resources and Community Development shall prepare and file on or before July 31 of each year with the Advisory Budget Commission a consolidated report for the preceding fiscal year concerning the sale and allocation of the proceeds of sale of the bonds authorized by this act.

(a) Department of Administration. The portion of the report prepared by the Department of Administration shall set forth for the preceding fiscal year itemized and total allocations from the Contingency Account for grants and administrative expenses; itemized and total allocations from the Pollution Control Account and from the Economic Development Account of grants authorized by the Department of Natural Resources and Community Development; and itemized and total allocations from the Water Supply Systems Account of grants authorized by the Division of Health Services. The Department of Administration shall also prepare a summary report of all bond funds received by and all allocations made from the Clean Water Fund for each fiscal year, the total funds received and allocations made, and unallocated funds on hand in each account as of the end of the preceding fiscal year.

(b) State Treasurer. The portion of the report prepared by the State Treasurer shall set forth the funds realized from the proceeds of sales of bonds or issuance of bond anticipation notes authorized by this act during the preceding fiscal year; the costs and expenses of such sales, or issuance; the total funds realized from the proceeds of sales of bonds or issuance of bond anticipation notes for all preceding fiscal years and the total costs and expenses
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of such sales or issuances; and the total amount of the bonds authorized but unissued.

(c) Department of Natural Resources and Community Development and Division of Health Services. The portions of the report prepared by the Department of Natural Resources and Community Development and the Division of Health Services:

(1) Shall identify each grant made by the receiving agency during the preceding fiscal year; the total amount of the grant commitments; the sums actually paid during the preceding fiscal year to each grant made and to each grant previously committed but unpaid; and the total grant funds paid during the preceding fiscal year.

(2) Shall itemize the expenditure of any administrative expense funds allocated from the Contingency Account during the preceding fiscal year.

(3) Shall contain a summary for all preceding fiscal years of the total number of grants made; the total funds committed to such grants; the total sum actually paid to such grants; and the total expenditure of administrative expense funds allocated from the Contingency Account.

(4) Shall contain an assessment and evaluation of the effects that approved projects have had upon water pollution control and water supplies within the purposes of this act and with relation to the total water pollution control and water supply problem.

(d) Signatures. The report shall be signed by each of the chief executive officers of the State agencies preparing the report.

Sec. 19. Severability. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or application, and to this end the provisions of this act are declared to be severable.

Sec. 20. During the 1981-83 biennium the State Treasurer shall sell no bonds pursuant to this act which will require debt service payments during the 1981-83 biennium unless there are sufficient funds to pay such debt service payments in the State Treasurer's debt service appropriation for the 1981-83 biennium.

Sec. 21. Effective date. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of October, 1981.

H. B. 1400      CHAPTER 994

AN ACT TO AUTHORIZE THE STATE TO GRANT UTILITY EASEMENTS ACROSS A PORTION OF JOCKEYS RIDGE STATE PARK LYING WITHIN THE STATE NATURE AND HISTORIC PRESERVE.

The General Assembly of North Carolina enacts:

Section 1. Article 25B of Chapter 143 of the General Statutes is hereby amended by adding a new section thereto to be designated as G.S. 143-260.10.1 to read as follows:

"§ 143-260.10.1. Utility easements; Jockeys Ridge State Park.—Notwithstanding the provisions of G.S. 143-260.10, the State of North Carolina is hereby authorized to grant utility easements to public utility companies

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across Jockeys Ridge State Park lying within the State Nature and Historic Preserve."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of October, 1981.

H. B. 1401    CHAPTER 995
AN ACT REGARDING THE DISTRIBUTION OF DARE COUNTY ABC PROFITS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 201 of the Session Laws of 1965, as amended by Chapter 1132 of the 1980 Session Laws, is amended by rewriting subsection A. of Section 1 to read:

"A. Fifteen percent (15%) of the total of those funds to be equally divided among the incorporated towns within Dare County, and those sums shall go to the general fund of each of the incorporated towns to be used for any necessary governmental purpose as determined by the governing body of each town."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of October, 1981.

H. B. 1402    CHAPTER 996
AN ACT TO AMEND THE EDENTON SUPPLEMENTAL RETIREMENT FUND.

The General Assembly of North Carolina enacts:

Section 1. Section 2(a) of Chapter 286, 1981 Session Laws, is amended by deleting the phrase "September 1, 1982," and by substituting the following, "November 1, 1981."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of October, 1981.

H. B. 1422    CHAPTER 997
AN ACT PROVIDING A METHOD OF ELECTING DISTRICT COURT JUDGES IN DISTRICTS 17-A AND 17-B.

The General Assembly of North Carolina enacts:

Section 1. The last sentence of Section 4(b) of Chapter 964, Session Laws of 1981, is deleted and the following inserted in lieu thereof:

"In 1982 and quadrennially thereafter, two district judges shall be elected in Judicial District 17-A for four-year terms, with filing in accordance with G.S. 163-106(d). In 1982 two district judges shall be elected in Judicial District 17-B for four-year terms, with filing for the two seats to be at-large and without designation of Vacancy; and in 1986 and quadrennially thereafter, two district judges shall be elected in Judicial District 17-B for four-year terms, with filing in accordance with G.S. 163-106(d)."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of October, 1981.
H. B. 1391  CHAPTER 998
AN ACT TO AMEND THE CHARTER OF THE CITY OF SALISBURY TO AUTHORIZE ECONOMIC DEVELOPMENT PROJECTS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Salisbury, Chapter 231, Private Laws of 1927, as amended, is hereby further amended by adding a new section to read as follows:

"Sec. 34.1. (a) Definition. In this section economic development project means an economic capital development project within a certain defined area or areas of the city as established by the city council, comprised of one or more buildings or other improvements and including any public and/or private facilities. Said project may include programs or facilities for improving downtown redevelopment, 'pocket of poverty' or other federal or State assistance programs which the city council determines to be in need of economic capital development or revitalization and which qualify for capital assistance under applicable federal or State programs.

(b) Authorization.

(1) In addition to any other authority granted by law, the City of Salisbury may accept grants, expend funds, make grants or loans, acquire property and participate in capital economic development projects which the city council determines will enhance the economic development and revitalization of the city in accordance with the authority granted herein. Such project may include both public and/or private buildings or facilities financed in whole or in part by federal or State grants (including but not limited to urban development action grants) and may include any capital expenditures which the city council finds necessary to comply with conditions in any federal or State grant agreements and which the city council finds will complement the project and improve the public tax base and general economy of the city. By way of illustration, but not limitation, such a project may include the construction or renovation of any one or combination of the following projects:

a. Privately owned hotel.
b. Privately owned office building.
c. Housing.
d. Parking facilities.
e. Industrial buildings.
f. Site improvements.
g. Privately owned commercial building, including warehouses.

Such project may be partially financed with city funds received from federal or State sources and being granted or loaned to the private owner for said construction or renovation; in addition, other city funds from any sources may be used for acquisition, construction, leasing and/or operation of facilities by the city for the general public and for capital improvements to public facilities which will support and enhance the private facilities and the general economy of the city.

(2) When the city council finds that it will promote the economic development or revitalization in the city, the city may acquire, construct, and operate or participate in the acquisition, construction,
ownership and operation of an economic development project or of specific buildings or facilities within such a project and may comply with any State or federal government grant requirements in connection therewith. The city may enter into binding contracts with one or more private parties or governmental units with respect to acquiring, constructing, owning or operating such a project. Such a contract may, among other provisions, specify the responsibilities of the city and the developer or developers and operators or owners of the project, including the financing of the project. Such a contract may be entered into before the acquisition of any real property necessary to the project by the city or the developer or other parties.

(c) Property acquisition. An economic development project may be constructed on property acquired by the developer or developers, or on property directly acquired by the city, or on property acquired by the Redevelopment Commission or its successors while exercising the powers, duties and responsibilities pursuant to G.S. 160A-505.

(d) Property disposition. In connection with an economic development project, the city may convey interests in property owned by it, including air rights over public facilities, as follows:

(1) If the property was acquired under the urban redevelopment law, the property interests may be conveyed in accordance with special or general law.

(2) If the property was acquired by the city directly, the city may convey property interests by any procedure set forth in its city charter, special act or the general law or by private negotiation or sale.

(e) Construction of the project. A contract between the city and the developer or developers may provide that the developer or developers shall be responsible for the construction of the entire economic development project. If so, the contract shall include such provisions as the city council deems sufficient to assure that any public facilities included in the project meet the needs of the city and are constructed at a reasonable price. Any funds loaned by the city, pursuant to this paragraph, to a private developer, and used by said developer in the construction of a project on private property shall not be deemed an expenditure of public funds.

(f) Operation. The city may contract for the operation of any public facility or facilities included in an economic development project by a person, partnership, firm or corporation, public or private. In addition, the city, upon consideration, may contract through lease or otherwise whereby it may operate privately constructed parking facilities to serve the general public. Such a contract shall include provisions sufficient to assure that any such facility or facilities are operated for the benefit of the citizens of the city."

Sec. 2. This act shall apply only to the City of Salisbury.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of October, 1981.
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S. B. 781   CHAPTER 999
AN ACT TO PLACE RANDOLPH COUNTY UNDER THE STATEWIDE
FOX HUNTING LAWS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 76 of the 1919 Public-Local Laws is repealed.
Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 9th day of
October, 1981.

H. B. 1097   CHAPTER 1000
AN ACT TO AMEND G.S. 135-8(b)(5) AND G.S. 128-30(b)(4) TO PROVIDE
ALTERNATIVE MEANS OF PURCHASING RETIREMENT SERVICE
CREDITS FOR EDUCATIONAL PROGRAMS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 135-8(b)(5) and G.S. 128-30(b)(4) are rewritten to read as
follows:
“...The Board of Trustees may approve the purchase of creditable service by
any member for leaves of absence or for interrupted service to an employer for
the sole purpose of acquiring knowledge, talents, or abilities and to increase the
efficiency of service to the employer. This creditable service shall be limited to
a career total of four years for each member and may be obtained in the
following manner:

a. Approved leave of absence. Where the employer grants an approved
leave of absence, a member may make monthly contributions to the
annuity savings fund on the basis of compensation the member was
earning immediately prior to such leave of absence. The employer shall
make monthly contributions equal to the normal and accrued liability
contribution on such compensation or, in lieu thereof, the member may
pay into the annuity savings fund monthly an amount equal to the
employer’s normal and accrued liability contribution when the policy of
the employer is not to make such payment.

b. No educational leave policy. Where the employer has a policy of not
granting educational leaves of absence or the member has unsuccessfully
petitioned for leave of absence and the member has interrupted service
for educational purposes, the member may make monthly contributions
into the annuity savings fund in an amount equal to the employee
contribution plus the employer normal and accrued liability
contribution on the basis of the compensation the member was earning
immediately prior to the interrupted service.

c. Educational program prior to July 1, 1981. Creditable service for leaves
of absence or interrupted service for educational purposes prior to July
1, 1981, may be purchased by a member, before or after retirement, who
returned as a contributing employee or teacher within 12 months after
completing the educational program and completed 10 years of
subsequent membership service, by making a lump sum payment into
the annuity savings fund equal to the full cost of the service credits
calculated on the basis of the assumptions used for purposes of the
actuarial valuation of the system’s liabilities and shall take into account

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the retirement allowance arising on account of the additional service credit commencing at the earliest age at which the member could retire on an unreduced retirement allowance as determined by the board of trustees upon the advice of the consulting actuary, plus a fee to be determined by the board of trustees.

Payments required to be made by the member under subparagraphs a. or b. above shall be due by the 15th of the month following the month for which service credit is allowed and payments made after the due date shall be assessed a one percent (1%) per month penalty for each month or fraction thereof the payment is made beyond the due date; provided, however, the member shall forfeit the right to continue contributions if any payment is not made within 90 days of the due date and payments made shall be refunded and service credits cancelled if the member does not become a contributing employee within 12 months after completing the educational program and fails to complete three years of subsequent consecutive membership service except in the event of death or disability."

Sec. 2. G.S. 135-8(d)(1) is amended by deleting the phrase "In addition, such contributions by employers will be required for each member on leave of absence who makes monthly contributions in accordance with (b)(5) above, and will be based on the salary or wage the member was receiving at the time the leave of absence was granted."

Sec. 3. G.S. 128-30(d)(1) is amended by deleting the phrase "In addition, such contributions by participating employers will be required for each member on leave of absence who makes monthly contributions in accordance with (b)(4) above, and will be based on the salary or wage the member was receiving at the time the leave of absence was granted."

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of October, 1981.

H. B. 1397

CHAPTER 1001

AN ACT TO POSTPONE THE EFFECTIVE DATE OF THE MONEY JUDGMENTS AND EXEMPTIONS ACT AND AMEND THE ACT TO REGULATE PRECIOUS METAL BUSINESS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 490 of the 1981 Session Laws is repealed. Chapter 490 of the 1981 Session Laws is reenacted effective January 1, 1982, with the following change:

Section 3 of Chapter 490 is amended by deleting the phrase "October 1, 1981" and substituting the phrase "January 1, 1982".

G.S. 1-369 through G.S. 1-392, as repealed by Chapter 490 of the 1981 Session Laws, are revived effective upon ratification of this act. This act does not affect exemptions that have been set aside by a court order entered on and after October 1, 1981, but before the effective date of this act. This act does not affect bankruptcy petitions filed on and after October 1, 1981, but before the effective date of this act.

Sec. 2. The Courts Commission is requested to review Chapter 490 of the 1981 Session Laws and to make recommendations on the chapter to the 1982 Session of the General Assembly.
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Sec. 3. G.S. 66-127 as enacted by Chapter 956 of the 1981 Session Laws is amended by adding a sentence to read as follows:

"Provided further that pawnbrokers as defined in G.S. 91-1 shall be exempted insofar as they accept pawns or pledges of items made of precious metals under the provisions of Chapter 91 of the General Statutes."

Sec. 4. G.S. 66-131 as enacted by Chapter 956 of the 1981 Session Laws is amended by rewriting the third sentence to read:

"A surety bond is to be executed by the dealer and by two responsible sureties or a surety company licensed to do business in the State of North Carolina and shall be on a form approved by the Department of Crime Control and Public Safety."

Sec. 5. This act is effective upon ratification, except Section 4 which shall be effective on December 1, 1981.

In the General Assembly read three times and ratified, this the 9th day of October, 1981.

H. B. 70  CHAPTER 1002
AN ACT TO APPROPRIATE FUNDS FOR AN ANIMAL DIAGNOSTIC LABORATORY IN NORTHWESTERN NORTH CAROLINA.

Whereas, the 14 counties in northwestern North Carolina contain 27 percent (27%) of the cattle population and 36 percent (36%) of the chicken population of the State; and

Whereas, these percentages have increased over the five years for which statistics are available; and

Whereas, approximately three percent (3%) of the State swine population is in these counties; and

Whereas, these counties are currently served by a branch laboratory at North Wilkesboro which is equipped only for the diagnostic diseases of poultry; and

Whereas, the nearest all-species facility laboratory is in Asheville and is not readily accessible because of the mountainous terrain; and

Whereas, the people of the northwestern 14 counties need an animal disease diagnostic laboratory located in the area; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Agriculture the sum of two hundred thousand dollars ($200,000) for the 1981-82 fiscal year for the purpose of purchasing land for building and equipping an animal disease diagnostic laboratory in northwestern North Carolina.

Sec. 2. The County of Surry is authorized to acquire and transfer to the State pursuant to G.S. 160A-274 a tract of land located in Surry County in the vicinity of the Town of Elkin, at the intersection of Interstate 77 and N.C. 268, for the purpose of establishing an animal diagnostic laboratory for the northwestern counties of the State on the site.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of October, 1981.
H. B. 76  CHAPTER 1003

AN ACT TO APPROPRIATE FUNDS FOR THE PURCHASE, RELOCATION AND RESTORATION OF THE HENRY STEVENS CARSON HOUSE IN BUNCOMBE COUNTY.

Whereas, the Henry Stevens Carson House is a one-story, log dog trot cabin with a kitchen ell, constructed in mid-19th century or earlier; and
Whereas, the House has many features, including half dovetailed cornering and rock chimneys with simple curly maple or poplar mantles, which give it historical, aesthetic and cultural significance; and
Whereas, the House is located across the road from the Big Ivy Community Center grounds, land owned by Buncombe County; and
Whereas, the Big Ivy Historical Society is dedicated to the preservation of Mountain Heritage in this area of North Buncombe County and in Western North Carolina; and
Whereas, the Society feels that the Henry Stevens Carson House would be ideal as an archive of the artifacts and history of the Big Ivy Section; and
Whereas, a study performed by the Department of Cultural Resources, Division of Archives and History, indicates that it would be feasible to move the House to the Big Ivy Community Center grounds and to restore it for this purpose; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Cultural Resources, Division of Archives and History, the sum of three thousand five hundred dollars ($3,500) for the 1981-82 fiscal year for the purchase, relocation and restoration of the Henry Stevens Carson House by the Big Ivy Historical Society. Two thousand five hundred dollars ($2,500) of these funds shall be used to purchase the House. One thousand dollars ($1,000) shall be used to reimburse the Big Ivy Historical Society for its cost in relocating and restoring the building.

Sec. 2. Big Ivy Community Center grounds and the labor supplied by the Big Ivy Historical Society for relocating and restoring the building shall constitute matching funds supplied on the local level.

Sec. 3. Funds appropriated in this act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of October, 1981.
CHAPTER 1004  Session Laws—1981

H. B. 107  CHAPTER 1004
AN ACT TO APPROPRIATE FUNDS FOR A BULKHEAD FOR HISTORIC BATH PENINSULA.

Whereas, the village of Bath, dating from 1705, is the oldest town in North Carolina; and
Whereas, the State of North Carolina maintains and operates portions of Bath as a State Historic Site; and
Whereas, State-owned and historic property at the peninsula formed by the confluence of Bath and Back creeks in the Town of Bath is eroding at a rate of approximately one foot per year; and
Whereas, the erosion of this peninsula endangers not only the appearance of the State Historic Site but also the site of an 1820's naval stores manufacturing facility; and
Whereas, a bulkhead already has been provided for creekside property near the peninsula; and
Whereas, additional archaeological investigation and the construction of a 350 feet of bulkhead is necessary to prevent the loss of historic and property resources within Historic Bath; Now, therefore,
The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Department of Cultural Resources, Division of Archives and History, the sum of one hundred fifty-one thousand dollars ($151,000) for the fiscal year 1981-1982 for necessary archaeological investigation and bulkhead construction.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of October, 1981.

H. B. 138  CHAPTER 1005
AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF CULTURAL RESOURCES TO HELP EXPAND NORTH CAROLINA'S STATEWIDE REVOLVING FUND FOR HISTORIC PRESERVATION.

Whereas, North Carolina has taken the lead nationally in the establishment of a statewide revolving fund for historic preservation with the formation of a nonprofit corporation known as the Historic Preservation Fund of North Carolina, Inc.; and
Whereas, the 1977 North Carolina General Assembly recognized the necessity of a statewide revolving fund to help save many important historic buildings in North Carolina by appropriating to the Fund matching grants-in-aid totalling one hundred thousand dollars ($100,000) during the 1977-79 biennium; and
Whereas, the Historic Preservation Fund has raised over three hundred thousand dollars ($300,000) from foundations, corporations, and individuals since the 1977 General Assembly appropriated one hundred thousand dollars ($100,000); and
Whereas, the Fund with operating expenses of less than two hundred thousand dollars ($200,000) during a four-year period has succeeded in saving more than 20 endangered historic properties throughout the State, attracting
over two million five hundred thousand dollars ($2,500,000) in private investments and thus enhancing the property tax values of their respective cities and counties; and

Whereas, the Department of Cultural Resources relies heavily on the Fund, although a separate, independent organization, to serve as its ally in the purchase of endangered properties and their resale under protective covenants; and

Whereas, the Fund is now working to save more than 10 endangered properties throughout North Carolina, and its activities are increasing rapidly as more people learn of the Fund and its accomplishments; and

Whereas, the State should help financially in the growth and expansion of North Carolina’s successful statewide revolving fund; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for the 1981-82 fiscal year the sum of one hundred thousand dollars ($100,000) for the use of The Historic Preservation Fund of North Carolina, Inc., provided a like amount of money is raised by The Historic Preservation Fund of North Carolina, Inc., after July 1 in the fiscal year, for the purpose of expanding North Carolina’s statewide revolving fund for historic preservation. Funds appropriated in this act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2., and only in accordance with special criteria and regulations to be developed by the North Carolina Historical Commission and the Department of Cultural Resources applicable to the operation of statewide revolving funds.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of October, 1981.

H. B. 154

CHAPTER 1006

AN ACT TO APPROPRIATE FUNDS FOR HISTORIC HALIFAX.

Whereas, North Carolina was the first of the thirteen colonies to take official action for independence by adopting the famous Halifax Resolves, April 12, 1776, more than a month before the colony of Virginia instructed its delegates in the Continental Congress to propose independence; and

Whereas, our first State Constitution was written in the town of Halifax in December, 1776, and our first State Governor, Richard Caswell, was elected there, and other significant historic events occurred in that town; and

Whereas, the Department of Cultural Resources has developed the historic part of the town, Halifax, as a State Historic Site; and

Whereas, more than two hundred thousand dollars ($200,000) worth of land and other property has been donated to the State at Halifax; and

Whereas, since the 1979 General Assembly recessed, work has been completed on Lot 52, the site of the Joseph Montfort House, ca. 1763, where more than one hundred thousand artifacts have been found; and

Whereas, a temporary structure was built over the remains as an emergency measure, but this structure will preserve the remains for only a short time; and
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Whereas, the State of North Carolina would be a leader in establishing archaeological and historical interpretive programs should a permanent structure be built over the remains; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources for the 1981-82 fiscal year the sum of one hundred thousand dollars ($100,000) to build a permanent structure over the remains of Lot 52, the site of the Joseph Montfort House, in the town of Halifax, and to establish an archaeological and historical interpretive program at the building for the public benefit.

Sec. 2. Funds appropriated in this act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of October, 1981.

H. B. 157  CHAPTER 1007

AN ACT TO APPROPRIATE FUNDS TO THE DIVISION OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES, DEPARTMENT OF HUMAN RESOURCES FOR THE PURPOSE OF ASSISTING AREA PROGRAMS IN PROVIDING COMMUNITY SUPPORT SERVICES TO CHRONICALLY MENTALLY ILL PERSONS.

Whereas, chronically mentally ill persons do not need to be housed in expensive State institutions in order to treat or control their illness; and

Whereas, maintaining chronically mentally ill persons in community programs involves sociological and economic as well as medical problems; and

Whereas, the provision of community support services to include pre-vocational, vocational, social and daily living training is an integral part of supporting the chronically mentally ill in their home communities; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund the sum of two hundred thousand dollars ($200,000) for fiscal year 1981-1982 to the Division of Mental Health, Mental Retardation and Substance Abuse Services, Department of Human Resources to assist area programs in providing community support day programs for the chronically mentally ill.

Sec. 2. The funds appropriated shall be expended to support or expand current programs (Mountainhouse-Blue Ridge Mental Health; Sunshine House-New River Mental Health; Piedmont Pioneer House-Gaston/Lincoln; and, to develop new programs in communities where an investment of program and volunteer efforts will be made. Support for each current program shall not exceed twenty thousand dollars ($20,000). Support for each new program shall not exceed fifty thousand dollars ($50,000). Funds shall be granted to the programs on the basis of applications which include a demonstration of local investment, need, and readiness to provide services.

Sec. 3. This act is effective upon ratification.

1542
In the General Assembly read three times and ratified, this the 9th day of October, 1981.

H. B. 160  CHAPTER 1008
AN ACT TO APPROPRIATE FUNDS TO ASSIST THE RESTORATION OF HARMONY HALL IN THE CITY OF KINSTON.

Whereas, Harmony Hall in the City of Kinston in Lenoir County is the only surviving eighteenth century building in the City of Kinston, the original portion thereof having been constructed in the last quarter of the eighteenth century; and

Whereas, the house served as the residence of James Glasgow, Secretary of State during the Richard Caswell administration, and was owned by Governor Caswell; and

Whereas, the City of Kinston and Lenoir County can greatly benefit from the restoration of the house as a museum and community and visitor's center; and

Whereas, the Lenoir County Historical Association, Inc., has raised over one hundred seventy thousand dollars ($170,000) in State, county, city, and local funds for the purpose of restoring and preserving Harmony Hall; and

Whereas, a significant portion of the restoration, including reroofing, foundation piers, underpinning, extensive repair to chimneys, framing in of a kitchen and restrooms, reinforcement of the building framing, replacement and repairing of floors with heart pine, roughing in of heating, plumbing, wiring and air conditioning, repair of window sashing and insulation in walls has already been accomplished; and

Whereas, although local donors have donated funds and material to put the finishing touches on the Hall, work cannot continue until funds are made available for security systems; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, the sum of twenty-five thousand dollars ($25,000) for the 1981-82 fiscal year for the purpose of continuing the restoration of Harmony Hall in Kinston by the Lenoir County Historical Association, Inc.

Sec. 2. Funds appropriated in this act shall be expended in accordance with G.S. 121-11 and G.S. 143-31.2, provided that a like amount is provided by the Lenoir County Historical Association, Inc.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of October, 1981.
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H. B. 181  CHAPTER 1009
AN ACT TO APPROPRIATE MONEY TO THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY FOR THE MAINTENANCE OF THE NATIONAL GUARD ARMORY IN THE CITY OF HENDERSON, VANCE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Crime Control and Public Safety the sum of thirty thousand dollars ($30,000) for the fiscal year 1981-82 for the replacement of the roof on the National Guard Armory located in the City of Henderson, Vance County.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of October, 1981.

H. B. 204  CHAPTER 1010
AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF CULTURAL RESOURCES FOR THE ACQUISITION, DEVELOPMENT, AND OPERATION OF A VISITOR CENTER FOR HISTORIC EDENTON, INC., AND THE JAMES IREDELL HOUSE STATE HISTORIC SITE.

Whereas, the public presentation of North Carolina's heritage provides an immeasurable contribution to all citizens of this State; and
Whereas, the historic town of Edenton both preserves and interprets North Carolina's colonial and nineteenth-century heritage for thousands of North Carolinians and other visitors yearly; and
Whereas, both cultural and economic benefits accrue to the State's citizens as a result of the public operation of Historic Edenton and the James Iredell House State Historic Site; and
Whereas, many State citizens directly contribute of their time, money, and interest in order to provide a public visitor program in Historic Edenton; and
Whereas, in excess of one and one-quarter million dollars ($1,250,000) has been spent in the preservation, development, and operation of Historic Edenton and the James Iredell House State Historic Site; and
Whereas, Historic Edenton, Inc., (a nonprofit group) and the Department of Cultural Resources have joined together in a cooperative management program for the better provision of services to Historic Edenton visitors, including those who visit the Cupola House, the original Chowan County Courthouse, St. Paul's Church, the Barker House, and other historic structures and features; and
Whereas, current facilities and operational support at and for Historic Edenton are inadequate to the needs of a broad-based visitor program which encourages tourism, provides direct educational benefits to the State's school-age population and supports the practical and economically beneficial reuse of historic structures; and
Whereas, the citizens of Edenton, Chowan County, and other parts of the State have demonstrated their concern for this situation by obtaining, through Historic Edenton, Inc., an option on the majority interest in the house and other property of the late Fannie Ziegler; and
 Whereas, the Ziegler House and property are contiguous to the parking area of the James Iredell House State Historic Site; and  
 Whereas, the destruction of the Ziegler House would result in the irretrievable loss of an important historic landmark and the diminishment of the historic environment both the James Iredell House and Historic Edenton; and  
 Whereas, the Ziegler House fronts on Edenton's main thoroughfare and, therefore, is readily accessible to visitors; and  
 Whereas, the Ziegler House can be rehabilitated, at low cost, to serve both now and in the foreseeable future as a Visitor Center and operational headquarters for both Historic Edenton, Inc., and the James Iredell House State Historic Site; and  
 Whereas, an appropriation is needed in order to purchase the Ziegler property option, rehabilitate the Ziegler House and grounds, and provide adequate public services at the new facility; Now, therefore,  

The General Assembly of North Carolina enacts:  

Section 1. There is appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for the 1981-1982 fiscal year, the sum of sixty thousand dollars ($60,000) for the purpose of acquiring and rehabilitating the Ziegler House and property and the provision of visitor services at the James Iredell House/Historic Edenton, Inc., Visitor Center.  

Sec. 3. Funds appropriated in this act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.  

Sec. 4. This act is effective upon ratification.  

In the General Assembly read three times and ratified, this the 9th day of October, 1981.

H. B. 205  

CHAPTER 1011  

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF CORRECTION FOR A VOCATIONAL SKILLS TRAINING BUILDING AT THE WOMEN'S CORRECTIONAL CENTER IN RALEIGH.  

Whereas, the Women's Correctional Center in Raleigh has an academic instruction program but has only limited facilities for vocational training, and  

Whereas, the Center presently has programs to provide vocational testing and counseling; and  

Whereas, the Center presently has programs for job placement services and community readiness training; and  

Whereas, the Center can only place inmates in low-paying positions because it has inadequate space to teach vocational skills; and  

Whereas, former inmates who are gainfully employed return to a life of crime less often than those who are unable to provide for themselves and their families upon their release from prison; and  

Whereas, if the Center has a new vocational skills facility it could use the funds to facilitate the rehabilitation of these inmates and their return to free society with attitudes, knowledge, and skills that will improve their prospects of supporting their families and becoming law-abiding citizens; Now, therefore,  

The General Assembly of North Carolina enacts:
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Section 1. There is appropriated from the General Fund to the Department of Correction the sum of two hundred twenty thousand dollars ($220,000) for the fiscal year 1981-82 for the construction of a Vocational Skills Training Building at the Women's Correctional Center in Raleigh. Provided, however, that no funds appropriated above may be used for any purpose other than herein stated. All unused, appropriated funds shall revert to the General Fund.

Sec. 2. The Department of Correction is specifically authorized to use forced account labor to construct the Vocational Skills Training Building at the Women's Correctional Center in Raleigh.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of October, 1981.

H. B. 226    CHAPTER 1012

AN ACT TO AMEND ARTICLE 3 OF CHAPTER 122 OF THE GENERAL STATUTES TO ASSURE CONTINUITY OF RESIDENTIAL CARE OR TREATMENT FOR PERSONS WITH MENTAL RETARDATION.

The General Assembly of North Carolina enacts:

Section 1. Article 3 of Chapter 122 of the General Statutes is amended by adding a new section to read:

"§ 122-55.8. Assurance for continuity of care for persons with mental retardation.—(a) Any person with mental retardation admitted for residential care or treatment to any 24-hour residential facility, operated under the authority of this Chapter and supported all or in part by State appropriated funds, for other than respite or emergency care shall have the right to residential placement in an alternative facility if the person is in need of placement and if the original facility can no longer provide the care or treatment.

(b) The area mental health, mental retardation and substance abuse authority which serves the county of residence of the person is responsible for the coordination of the placement.

(c) The Department of Human Resources is responsible for coordinative and financial assistance to the area authority in assuring this continuity of care."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of October, 1981.

H. B. 259    CHAPTER 1013

AN ACT TO APPROPRIATE FUNDS TO REPAIR THE LOWER LAKE AND DAM AT THE BREVARD MUSIC CENTER AS REQUIRED BY THE DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT.

Whereas, pursuant to G.S. 143-215.32, the Environmental Management Commission of the Department of Natural Resources and Community Development has ordered the Brevard Music Center to repair the two dams located on the center's property; and

Whereas, the center has already spent fifty thousand dollars ($50,000) for mandated repairs and alterations to the Upper Lake and Dam, and needs thirty-
five thousand dollars ($35,000) to make the necessary repairs to the Lower Lake and Dam; and

Whereas, the center is a nonprofit educational institution chartered by this State; and

Whereas, the center has contributed to the cultural enrichment of this State for over forty years through its musical instruction and concerts; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Cultural Resources the sum of thirty-five thousand dollars ($35,000) for the fiscal year 1981-82 for the repairs and alterations ordered by the Department of Natural Resources and Community Development to be made on the Lower Lake and Dam at the Brevard Music Center.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of October, 1981.

H. B. 260  CHAPTER 1014

AN ACT TO APPROPRIATE CAPITAL FUNDS TO SUPPLEMENT THE APPROPRIATION RECOMMENDATION FOR THOMS REHABILITATION HOSPITAL IN THE BUDGET RECOMMENDED BY THE GOVERNOR AND ADVISORY BUDGET COMMISSION.

Whereas, Thoms Rehabilitation Hospital was established in 1938 as a nonprofit organization for the treatment of crippled children; and

Whereas, in 1972 Thoms Rehabilitation Hospital began treating both children and adults; and

Whereas, Thoms Rehabilitation Hospital has grown in giving services to not only Western North Carolina, but to the entire State of North Carolina; and

Whereas, inpatient and outpatient services consist of physical therapy, occupational therapy, recreation therapy, speech and hearing, psychology, rehabilitation nursing, medical services, respiratory therapy and social services; and

Whereas, the majority of the facility has deteriorated to the point that makes replacement a necessity; and

Whereas, by modernizing this portion of the hospital, it will bring those beds up to both JCAH (Joint Commission on Accreditation of Hospitals) and CARF (Commission on Accreditation of Rehabilitation Facilities) standards; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Human Resources the sum of one hundred thousand dollars ($100,000) for fiscal year 1981-82 for renovation and refurbishing of the patient area at Thoms Rehabilitation Hospital in Asheville. This appropriation is in addition to all other appropriations to the Department of Human Resources for Thoms Rehabilitation Hospital.

Sec. 2. This act is effective upon ratification.
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In the General Assembly read three times and ratified, this the 9th day of October, 1981.

H. B. 273  CHAPTER 1015
AN ACT TO APPROPRIATE FUNDS FOR THE UNIVERSITY BOTANICAL GARDENS AT ASHEVILLE.

Whereas, the University Botanical Gardens, situated on 10 acres of State property on the grounds of The University of North Carolina at Asheville, is dedicated to the preservation and display of the native flora of North Carolina and the dissemination of botanical and ecological knowledge to the public at large; and

Whereas, the University Botanical Gardens has been developed and maintained over 20 years by the University Botanical Gardens at Asheville, Inc., a nonprofit association of public spirited citizens who have given of their volunteer labors and financial support since its inception in 1960, and has not heretofore received any appropriated monies for its support; and

Whereas, the gardens serve over 20,000 visitors annually, thirty percent (30%) of whom are tourists from the other 49 states, territories and many foreign countries; and

Whereas, these tourists and scheduled guided tours, classes, clubs, visiting botanists and others concerned with ecology can better be served with a reception center, equipped with herbarium displays and a meeting room, and manned by volunteer curators; and

Whereas, such a reception center can be a unique educational tool for the public schools of the region; and

Whereas, the University Botanical Gardens at Asheville, Inc., recognizing the need for a reception center building and an endowment for maintenance of it and of the gardens, has made plans for a building and has mounted a fund drive for three hundred seventy thousand dollars ($370,000) for the building and the endowment; and

Whereas, one hundred three thousand dollars ($103,000) has been committed for this purpose since the architect's design plans were received in 1980; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to The University of North Carolina Board of Governors the sum of ten thousand dollars ($10,000) for the 1981-82 fiscal year for a grant to the University Botanical Gardens at Asheville, Inc., for building a reception center.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of October, 1981.
AN ACT TO CREATE THE ADVISORY COMMITTEE ON ABANDONED CEMETERIES AND TO PROVIDE FOR THE COLLECTION OF CEMETERY DATA IN NORTH CAROLINA.

Whereas, there are thousands of cemeteries throughout the State of North Carolina which contain an important record of the historical and genealogical background of the men and women who played a vital role in the development of this State; and

Whereas, this information is recorded on tombstones and other grave markers, many of which are in danger of being destroyed through nature, neglect, vandalism, and other causes; and

Whereas, the 1977 General Assembly (Second Session, 1978), by passing Resolution 134 establishing the COMMITTEE FOR THE STUDY OF THE NEED FOR A COMPREHENSIVE STATEWIDE PROGRAM FOR THE LOCATION, IDENTIFICATION, AND PROPER CARE OF ABANDONED CEMETERIES, recognized that many cemeteries already have been obliterated and others are in imminent danger of destruction; and

Whereas, the COMMITTEE FOR THE STUDY OF THE NEED FOR A COMPREHENSIVE STATEWIDE PROGRAM FOR THE LOCATION, IDENTIFICATION, AND PROPER CARE OF ABANDONED CEMETERIES recommends to the General Assembly that the Division of Archives and History, Department of Cultural Resources, be authorized to take appropriate measures to record and permanently preserve information of significant historical and genealogical value found within endangered cemeteries; and

Whereas, there exists throughout the State strong support from the public and private sectors for a continuation and completion of the cemetery surveys begun as a result of the work conducted by the COMMITTEE FOR THE STUDY OF THE NEED FOR A COMPREHENSIVE STATEWIDE PROGRAM FOR THE LOCATION, IDENTIFICATION AND PROPER CARE OF ABANDONED CEMETERIES; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. A new Part is added to Article 2 of Chapter 143B of the General Statutes to read:

"Part 25. Advisory Committee on Abandoned Cemeteries.

§ 143B-126. Advisory Committee on Abandoned Cemeteries; members; selections; compensation; terms; vacancy; duties.—(a) There is created the Advisory Committee on Abandoned Cemeteries to be composed of 17 members appointed as follows:

(1) two by the Governor;
(2) one by the President of the Senate;
(3) one by the Speaker of the House;
(4) one by the Secretary of the Department of Cultural Resources;
(5) one by the Executive Director of the North Carolina Commission of Indian Affairs, Department of Administration;
(6) one each by the chief executive of the following organizations, from the membership of the organization:
   a. North Carolina Archaeological Council;
   b. North Carolina Association of County Commissioners;
c. North Carolina Chapter of the Daughters of the American Revolution;
d. North Carolina Chapter of the Society of the Cincinnati;
e. North Carolina Chapter of the Sons of the American Revolution;
f. North Carolina Genealogical Society;
g. North Carolina Historical Commission;
h. North Carolina League of Municipalities;
i. Society of the Colonial Dames of America in the State of North Carolina;
j. Sons of Confederate Veterans;
k. United Daughters of the Confederacy.

(b) Members shall be appointed for staggered four-year terms beginning July 1 of odd-numbered years and shall serve until their successors are appointed and qualified. To create and maintain staggered terms, one member appointed by the Governor and the members appointed by the Speaker of the House, North Carolina Archaeological Council, North Carolina Chapter of the Daughters of the American Revolution, North Carolina Chapter of the Sons of the American Revolution, North Carolina Genealogical Society, North Carolina League of Municipalities, and the Sons of Confederate Veterans shall be appointed for two-year terms to expire June 30, 1983, at which time their successors shall be appointed pursuant to this section for four-year terms. The remaining committee members shall be appointed for four-year terms.

c. Members shall serve without salary or compensation for their actual expenses resulting from the performance of their official duties.

(d) An appointment to fill a vacancy on the committee shall be made according to the procedures for appointment for regular terms, pursuant to this section. Any appointment to fill a vacancy on the committee for any reason shall be for the balance of the unexpired term.

e. Upon its appointment the committee shall organize by electing from its membership a chairman and a vice-chairman. It shall be the duty of the committee to review existing statutes relating to cemeteries, make recommendations to the General Assembly concerning new statutes, and to assist the department in its efforts to collect information on abandoned cemeteries.”

Sec. 2. There is appropriated from the General Fund to the Department of Cultural Resources, Division of Archives and History the sum of sixteen thousand dollars ($16,000) for the fiscal year 1981-82 to be used (i) to administer the work on the Advisory Committee on Abandoned Cemeteries, (ii) to coordinate the collection and recording of pertinent information, such as the location, condition, and the historical genealogical significance of every cemetery in North Carolina in such a manner as to make said information permanently available to the public through the Division of Archives and History, Department of Cultural Resources, and (iii) to promote among North Carolinians a better understanding of North Carolina statutes pertaining to cemeteries in order to encourage their protection and preservation. An appropriation adequate for these purposes shall become a part of the continuation budget for the Department of Cultural Resources.

Sec. 3. There is appropriated from the General Fund to the Department of Public Education the sum of sixteen thousand dollars ($16,000) for fiscal year
1981-82 to provide funds for the Yancey County Board of Education for a one-time special provision.

Sec. 4. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 9th day of October, 1981.

H. B. 342  CHAPTER 1017
AN ACT TO APPROPRIATE FUNDS FOR A FARMER'S MARKET IN MONTGOMERY COUNTY.

Whereas, there is presently no suitable Farmer's Market in Montgomery County or the surrounding counties where farmers can sell their produce directly to consumers; and
Whereas, the Town of Candor has recently acquired a 20 acre site at a cost of sixty thousand dollars ($60,000) for a Farmer's Market and plans to provide initial grading of the site and some gravel; and
Whereas, the Town of Candor plans to operate the market and to provide advertising, promotion, management and maintenance for it; Now, therefore,
The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Agriculture the sum of one hundred thousand dollars ($100,000) for the 1981-82 fiscal year, for construction of a Farmer's Market for the Town of Candor in Montgomery County.

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 9th day of October, 1981.

H. B. 366  CHAPTER 1018
AN ACT TO PROVIDE FUNDS FOR CATTLE FEEDING RESEARCH AT TIDEWATER RESEARCH STATION.

Whereas, a strong research program devoted to solving the problems of how to guide beef producers in efficient and sound cattle feeding and management practices would greatly strengthen the current beef industry by increasing the in-State demand for beef and a more competitive market for the State's feeder calves; Now, therefore,
The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Agriculture the sum of one hundred fifty thousand dollars ($150,000) for fiscal year 1981-82 to build a cattle feeding and environmental research facility at the Tidewater Research Facility.

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 9th day of October, 1981.
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H. B. 376 CHAPTER 1019
AN ACT TO PROVIDE FUNDS FOR MARKET DEVELOPMENT FOR NORTH CAROLINA’S AGRICULTURAL PRODUCTS.

Whereas, one of the greatest challenges facing North Carolina’s agricultural industry today is the development of new and expanded markets for this State’s farm products; and

Whereas, the extent to which this development is successful in the months and years ahead will be a major factor in determining how many of this State’s farmers survive and how many are forced to sell out; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Agriculture the sum of sixty thousand dollars ($60,000) for fiscal year 1981-82 for additional personnel and related expenses in developing markets for North Carolina’s agricultural products.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of October, 1981.

H. B. 378 CHAPTER 1020
AN ACT TO APPROPRIATE FUNDS TO PURCHASE MATERIALS FOR A SOLAR HEATED DORMITORY AT THE JOHN C. CAMPBELL FOLK SCHOOL.

Whereas, the John C. Campbell Folk School of Brasstown was founded in 1925; and

Whereas, the school’s goals include improving the quality of rural life by bringing better farming practices and economic and cultural opportunities to the people of the surrounding areas, and teaching crafts and recreation to students; and

Whereas, in 1980 more than 860 students participated in courses at the Folk School, which included Crafts, Music, Dancing, Cherokee Indian History, Creative Writing, Homesteading, Appalachian Culture, and Folk Lore; and

Whereas, in 1980 1,500 people attended the Folk School’s concert series; and

Whereas, in 1980 local craftsmen marketed over one hundred thousand dollars ($100,000) in crafts through the School Marketing Program; and

Whereas, 14 community groups use the Folk School premises as a meeting place on a regular basis; and

Whereas, the Folk School has been nominated for the National Register of Historical Places; and

Whereas, an earth insulated solar heated student dormitory will enable more students to attend the Folk School and will add much needed space at the school; and

Whereas, as a demonstration project, planning and construction of the dormitory will be educational for Folk School students and will provide the total community with an opportunity to examine an integrated efficient system, easily adapted to a variety of structures; Now, therefore,

The General Assembly of North Carolina enacts:
Section 1. There is appropriated from the General Fund to the Department of Cultural Resources for fiscal year 1981-82 the sum of thirty thousand dollars ($30,000) to purchase building materials to be used in a solar heated dormitory at the John C. Campbell Folk School of Brasstown, North Carolina.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of October, 1981.

H. B. 171  CHAPTER 1021
AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF ADMINISTRATION FOR A RESERVE TO HOLD THE METHODIST HOME PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Administration for fiscal year 1981-82 the sum of two hundred fifty thousand dollars ($250,000) to set up a reserve fund to hold the Methodist Home property in Raleigh until it can be determined whether the property can be acquired by the State. No portion of these funds may be irrevocably committed unless and until the General Assembly appropriates funds sufficient to purchase the property in question.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of October, 1981.

S. B. 639  CHAPTER 1022
AN ACT TO AUTHORIZE THE NORTH CAROLINA UTILITIES COMMISSION TO EMPLOY TEMPORARY COURT REPORTERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 62-71 is amended by adding a new subsection (d) to read as follows:

"(d) The Commission shall have authority to contract with or employ on a temporary basis, when deemed necessary by the Chairman of the Commission, court reporters in addition to those employed on a full-time basis by the Commission, for the purpose of recording and transcribing testimony given at hearings before the Commission involving any Class A or B utility. The Commission is authorized to charge the cost of employing such court reporters directly to the involved utility or utilities."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of October, 1981.
CHAPTER 1023  Session Laws—1981

S. B. 783  CHAPTER 1023
AN ACT TO APPROPRIATE FUNDS TO STUDY THE WHITE OAK AND NEUSE RIVERS.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Natural Resources and Community Development the sum of one hundred thousand dollars ($100,000) for fiscal year 1981-82, to fund engineering studies of the navigation, sedimentation, water quality and other water resources problems associated with the White Oak and Neuse Rivers. The studies will determine the causes of and recommend solutions for the problems of the White Oak and Neuse Rivers. These funds are in addition to all other funds appropriated to the Department.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

S. B. 83  CHAPTER 1024
AN ACT TO APPROPRIATE FUNDS TO PROMOTE PRODUCTION OF THE OUTDOOR DRAMA “STRIKE AT THE WIND”.

Whereas, the Lumbee Indians of North Carolina have a wide, interesting and exciting history; and

Whereas, as a result of the fight and struggle against the political injustices forced on the Lumbee Indians during this time in history said Lumbee Indians were led in the late 1800’s by Henry Berry Lowry; and

Whereas, Lowry was declared an “Indian Robin Hood” by the Indians and an outlaw by the white folks of North Carolina; and

Whereas, the outdoor drama “Strike at the Wind”, which is produced by the Robeson Historical Drama, Inc., tells the story of these people in Robeson County, North Carolina; and

Whereas, the drama, “Strike at the Wind”, is entering its fourth season, attracting tourists from other states and nations, and in its premiere season was billed the “greatest outdoor drama” in America; and

Whereas, the producers of this drama need financial assistance from the State in order to continue production of same; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Cultural Resources the sum of forty thousand dollars ($40,000) for the 1981-82 fiscal year to be used for the continued production of the outdoor drama “Strike at the Wind”, produced by Robeson Historical Drama, Inc.

Sec. 2. The sums appropriated in Section 1 of this act shall become a part of the continuation budget for the Department of Cultural Resources.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

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S. B. 150  

CHAPTER 1025  

AN ACT TO APPROPRIATE FUNDS TO COMPLETE THE AUDITORIUM AND LIBRARY AT THE FOLK ART CENTER OF THE SOUTHERN HIGHLAND HANDICRAFT GUILD.

Whereas, the Folk Art Center of the Southern Highland Handicraft Guild is a place to preserve, celebrate, develop, and market the crafts and folk arts of the mountain region; and  
Whereas, the Folk Art Center opened to the public on April 1, 1980, after having received capital funding from the federal government, private business and industry, individuals, foundations, and Buncombe County; and  
Whereas, the Folk Art Center attracts hundreds of thousands of visitors annually to see the crafts of the mountain region; and  
Whereas, an auditorium and library will enable daily educational programs to be conducted and be a primary resource for the study of the crafts of the Southern Highlands; Now, therefore,  

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Cultural Resources for fiscal year 1981-82 the sum of thirty thousand dollars ($30,000) to complete the auditorium and library at the Folk Art Center of the Southern Highland Handicraft Guild in Buncombe County.  

Sec. 2. Funds under Section 1 of this act shall be available only on a dollar-for-dollar basis to match nonstate funds.  

Sec. 3. This act shall become effective upon ratification.  
In the General Assembly read three times and ratified, this the 10th day of October, 1981.

S. B. 151  

CHAPTER 1026  

AN ACT TO APPROPRIATE FUNDS FOR DEVELOPING ADDITIONAL EXHIBITS, UPGRAADING ARTIFACT STORAGE AND INSTALLING CLIMATE CONTROL AND SECURITY SYSTEMS IN THE RURAL LIFE MUSEUM AT MARS HILL COLLEGE.

Whereas, the Rural Life Museum was established in 1979 by the Mars Hill College Southern Appalachian Center; and  
Whereas, the purpose of the Rural Life Museum is to facilitate the collection, preservation, exhibition and interpretation of rural life materials relevant to the history and culture of North Carolina's mountain region; and  
Whereas, the museum, as an educational institution, seeks to assist the people of the region in understanding their past and in relating their past to contemporary issues through the use of displays and educational programs; and  
Whereas, the museum, since its inception, has received all of its monetary support from Mars Hill College for renovating, adapting and developing the southwest wing (1,200 square feet) of the Montague Building as a museum facility; and  
Whereas, the southeast wing (1,500 square feet) of the Montague Building has been given to the museum for development as additional museum space for displaying and interpreting artifacts from three major collections currently in storage; and
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Whereas, artifacts from the museum collection which are not on display are inadequately housed in various repositories on the Mars Hill campus; and

Whereas, the collection storage should be consolidated and upgraded either within the Montague Building or at some other suitable location on campus; and

Whereas, the artifacts that are being preserved at the Rural Life Museum are some of the few remaining evidences of a way of life that has been rapidly disappearing from North Carolina's formerly isolated mountain region; and

Whereas, the installation of security and climate control systems is essential to the protection and preservation of these artifacts; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Cultural Resources for the fiscal year 1981-82 the sum of ten thousand dollars ($10,000) for the purpose of developing additional interpretive exhibits, consolidating and upgrading artifact storage, and installing climate control and security systems in the Rural Life Museum at Mars Hill College, provided a like amount of ten thousand dollars ($10,000) is raised by the College.

Sec. 2. Funds appropriated in this act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

S. B. 185   CHAPTER 1027

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF CULTURAL RESOURCES FOR THE FAISON HISTORICAL COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Cultural Resources the sum of three thousand dollars ($3,000) for the fiscal year 1981-82 for the establishment of a museum in the Town of Faison provided that the Faison Historical Commission raises three thousand dollars ($3,000) for that purpose.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

S. B. 210   CHAPTER 1028

AN ACT TO APPROPRIATE FUNDS FOR A GRANT-IN-AID TO THE PERSON PLACE PRESERVATION SOCIETY, INC., IN FRANKLIN COUNTY FOR THE REHABILITATION OF THE PERSON PLACE.

Whereas, the Person Place Preservation Society, Inc., is a nonprofit corporation which has a lease agreement with Louisburg College, which owns the Person Place; and

Whereas, the original Georgian structure was constructed about 1789 by Wilson Milner and had additions through several owners culminating with a large Federal style addition in about 1830; and

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Whereas, the structure has a long and integral history in the development of the city of Louisburg and the Franklin Academy (now Louisburg College) and has been a hostelry, a dormitory, and a home for two headmasters of the college and three State legislators; and

Whereas, the structure has been listed by the United States Department of the Interior in the National Register of Historic Places; and

Whereas, the stabilization phase of the rehabilitation has been completed by a grant from the Heritage Conservation and Recreation Service; and

Whereas, the citizens of Louisburg and Franklin County have already demonstrated their special interest in this project by raising almost twenty thousand dollars ($20,000); Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, the sum of twenty-five thousand dollars ($25,000) for fiscal year 1981-82 for the purpose of phased rehabilitation of the Person Place to provide a facility for community use, provided that a like amount is raised by the Person Place Preservation Society, Inc., to match the grant-in-aid on a dollar-for-dollar basis. The Society may apply to the division, from time to time, for the funds appropriated under this act, as it raises the matching funds. Any appropriated money not used or not matched shall revert to the General Fund.

Sec. 2. Funds appropriated in this act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

S. B. 225

CHAPTER 1029

AN ACT TO ESTABLISH THE NORTH CAROLINA FIREMEN'S AND RESCUE SQUAD WORKERS' PENSION FUND.

The General Assembly of North Carolina enacts:

Section 1. Article 3 of Chapter 118, of the General Statutes is rewritten to read as follows:

"ARTICLE 3.

"North Carolina Firemen's and Rescue Squad Workers' Pension Fund.

"§ 118-18. Fund established; administration by board of trustees; rules and regulations.—For the purpose of furthering the general welfare and police powers and obligations of the State with respect to the protection of all its citizens from the consequences of loss or damage by fire and of injury by serious accident or illness, of increasing the protection of life and property against loss or damage by fire, of improving fire fighting and life saving techniques, of increasing the potential of fire departments, rescue squads, organizations and groups, of fostering increased and more widely spread training of personnel of these organizations and groups, and of providing incentive and inducement to participate in fire prevention, fire fighting and rescue squad activities and for the establishment of new, improved or extended fire departments, rescue squads, organizations and groups to the end that ultimately all areas of the State and all of its citizens will receive the benefits of fire protection and rescue
squad's activity and a resulting reduction of loss or damage to life and property by fire hazard or injury by serious accident or illness, and in recognition of the public service rendered to the State of North Carolina and its citizens by 'eligible firemen and rescue squad workers,' as defined by this Article, there is created in this State a fund to be known, and designated as 'The North Carolina Firemen's and Rescue Squad Workers' Pension Fund' to be administered as provided in this Article.

The North Carolina Firemen's and Rescue Squad Workers' Pension Fund is established to provide pension allowances and other benefits for eligible firemen and rescue squad workers in the State who elect to become members of the Fund. The Board of Trustees created by this Article shall have authority to administer the Fund and shall make necessary rules and regulations to carry out the provisions of this Article.

"§ 118-19. Creation and membership of board of trustees; compensation.—There is created a board to be known as the 'Board of Trustees of the North Carolina Firemen's and Rescue Squad Workers' Pension Fund', hereinafter known as 'the Board'.

The Board shall consist of seven members:

(1) The State Auditor, who shall act as chairman.
(2) The State Insurance Commissioner.
(3) The State Treasurer.
(4) Four members to be appointed by the Governor; one a paid fireman, one a volunteer fireman, one volunteer rescue squad worker, and one representing the public at large, for terms of four years each. These members may succeed themselves.

The members presently serving on the 'Board of Trustees of the Firemen's Pension Fund' shall continue to serve until the expiration of their terms. No member of the Board shall receive any salary, compensation or expenses other than that provided in G.S. 138-6 for each day's attendance at duly and regularly called and held meetings of the Board of Trustees.

"§ 118-20. Powers and duties of the Board.—The Board shall request appropriations out of the General Fund for administrative expenses and to provide for the financing of this Pension Fund, employ necessary clerical assistance, determine all applications for pensions, provide for the payment of pensions, make all necessary rules and regulations not inconsistent with law for the government of this Fund, prescribe rules and regulations of eligibility of persons to receive pensions, expend funds in accordance with the provisions of this Article, and generally exercise all other powers necessary for the administration of the Fund created by this Article.

"§ 118-21. Director.—There is created an office to be known as Director of the North Carolina Firemen's and Rescue Squad Workers' Pension Fund. He shall be named by the Board and shall serve at its pleasure. The Director shall be subject to the provisions of the State Personnel Act. The Director shall be bonded in such amount as may be determined by the Board, and he shall promptly transmit to the State Treasurer all moneys collected by him, which moneys shall be deposited by the State Treasurer into the Fund.

"§ 118-22. State Treasurer to be custodian of Fund; appropriations; contributions to Fund; expenditures.—The State Treasurer shall be the custodian of the North Carolina Firemen's and Rescue Squad Workers' Pension Fund and shall invest its assets in accordance with the provisions of G.S.
§118-23. ‘Eligible Firemen’ defined; determination and certification of volunteers meeting qualifications.—‘Eligible firemen’ shall mean all firemen of the State of North Carolina or any political subdivision thereof, including those performing such functions in the protection of life and property through fire fighting within a county or city governmental unit and so certified to the Commissioner of Insurance by the governing body thereof, and who belong to a bona fide fire department which, as determined by the Commissioner, is classified as not less than class ‘9’ or class ‘A’ and ‘AA’ departments in accordance with rating methods, schedules, classifications, underwriting rules, bylaws or regulations effective or applied with respect to the establishment of rates or premiums used or charged pursuant to G.S. 58-131.1 or by such other reasonable methods as the Commissioner may determine, and which operates fire apparatus and equipment of the value of five thousand dollars ($5,000) or more, and said fire department holds drills and meetings not less than four hours monthly and said firemen attend at least 36 hours of all drills and meetings in each calendar year. ‘Eligible firemen’ shall also mean those persons meeting the other qualifications of this section, not exceeding 25 volunteer firemen plus one additional volunteer fireman per 100 population in the area served by their respective departments. Each department shall annually determine and report the names of those firemen meeting the eligibility qualifications to its respective governing body, which upon determination of the validity and accuracy of the qualification shall promptly certify the list to the Board.

§118-24. ‘Eligible rescue squad worker’ defined; determination and certification of eligibility.—‘Eligible rescue squad worker’ means any member of a rescue squad who is eligible for membership in the North Carolina Association of Rescue Squads, Inc., and who has attended a minimum of 36 hours of training and meetings in the last calendar year. Each rescue squad worker eligible for membership in the North Carolina Association of Rescue Squads, Inc., must file a roster certified by the secretary of the association of those rescue squad workers meeting the association requirements with the State Auditor by January 1 of each calendar year.

‘Eligible rescue squad worker’ does not mean ‘eligible fireman’ as defined by G.S. 118-23, nor may an ‘eligible rescue squad worker’ qualify also as an ‘eligible fireman’ in order to receive double benefits available under this Article.

§118-25. Firemen’s application for membership in Fund; monthly payments by members; payments credited to separate accounts of members.—Those firemen who are eligible pursuant to G.S. 118-23 may make application for membership to the Board. Each fireman upon becoming a member of the Fund
shall pay the Director of the Fund the sum of five dollars ($5.00) per month. The monthly payments shall be credited to the separate account of the member and shall be kept by the custodian so it is available for payment on withdrawal from membership or retirement.

"§ 118-26. Rescue Squad Worker's application for membership in funds; monthly payments by members; payments credited to separate accounts of members.—Those rescue squad workers eligible pursuant to G.S. 118-24 may make application to the Board for membership. All persons who subsequently become rescue squad workers may make application for membership. Each eligible rescue squad worker upon becoming a member shall pay the Director of the Fund the sum of five dollars ($5.00) per month. A rescue squad worker who, on the date of the establishment of the Fund, has service as a rescue squad worker certified by the Department of State Auditor may make a lump sum payment of five dollars ($5.00) per month for each month of service as an eligible rescue squad worker as defined by G.S. 118-24, on or before July 1, 1983, for as many as 180 months together with interest at an annual rate of six percent (6%).

The monthly payments shall be credited to the separate account of the member and shall be kept by the custodian so it is available for payment on withdrawal from membership or retirement.

"§ 118-27. Monthly pensions upon retirement.—Any member who has served 20 years as an 'eligible fireman' or 'eligible rescue squad worker' in the State of North Carolina, as provided in G.S. 118-23 and G.S. 118-24, and who has attained the age of 55 years is entitled to be paid a monthly pension from this Fund. The monthly pension shall be in the amount of seventy-five dollars ($75.00) per month. Any retired fireman receiving a pension of fifty dollars ($50.00) per month shall, effective July 1, 1981, receive a pension of seventy-five dollars ($75.00) per month.

Members shall pay five dollars ($5.00) per month as required by G.S. 118-25 and G.S. 118-26 for a period of no longer than 20 years. No 'eligible rescue squad member' shall receive a pension prior to July 1, 1986. No person shall be entitled to a pension hereunder until his official duties as a fireman or rescue squad worker shall have been terminated and he shall have retired as such according to standards or rules fixed by the Board of Trustees.

Any member who is totally and permanently disabled while in the discharge of his official duties as a result of bodily injuries sustained or as a result of extreme exercise or extreme activity experienced in the course and scope of his official duties and who leaves the fire or rescue squad service because of this disability shall be entitled to be paid from the Fund a monthly benefit in an amount of seventy-five dollars ($75.00) per month beginning the first month after his fifty-fifth birthday. All applications for disability are subject to the approval of the Board who may appoint physicians to examine and evaluate the disabled member prior to approval of his application, and annually thereafter. Any disabled member shall not be required to make the monthly payment of five dollars ($5.00) as required by G.S. 118-25 and G.S. 118-26.

Any member who is totally and permanently disabled for any cause, other than line of duty, who leaves the fire or rescue squad service because of this disability and who has at least 10 years of service with the Pension Fund, may be permitted to continue making a monthly contribution of five dollars ($5.00) to the Fund until he has paid into the Fund the sum of one thousand two
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hundred dollars ($1,200). The member shall upon attaining the age of fifty-five years be entitled to receive a pension as provided by this section. All applications for disability are subject to the approval of the Board who may appoint physicians to examine and evaluate the disabled member prior to approval of his application annually thereafter.

The pensions provided shall be in addition to all other pensions or benefits under any other statutes of the State of North Carolina or the United States, notwithstanding any exclusionary provisions of other pensions or retirement systems provided by law.

"§ 118-28. Payments in lump sums.—The Board shall direct payment in lump sums from the Fund in the following cases:

(1) To any fireman or rescue squad worker upon the attaining of the age of 55 years, who, for any reason, is not qualified to receive the monthly retirement pension and who was enrolled as a member of the Fund, an amount equal to the amount paid into the Fund by him. This provision shall not be construed to preclude any active fireman or rescue squad worker from completing the requisite number of years of active service after attaining the age of 55 years necessary to entitle him to the pension.

(2) If any fireman or rescue squad worker dies before attaining the age at which a pension is payable to him under the provisions of this Article, there shall be paid to his widow, or if there be no widow, to the person responsible for his child or children, or if there be no widow or children, then to his heirs at law as may be determined by the Board or to his estate, if it is administered and there are no heirs, an amount equal to the amount paid into the Fund by the said fireman or rescue squad worker.

(3) If any fireman or rescue squad worker dies after beginning to receive the pension payable to him by this Article, and before receiving an amount equal to the amount paid into the Fund by him, there shall be paid to his widow, or if there be no widow, then to the person responsible for his child or children, or if there be no widow or children, then to his heirs at law as may be determined by the Board or to his estate, if it is administered and there are no heirs, an amount equal to the difference between the amount paid into the Fund by the said fireman or rescue squad worker and the amount received by him as a pensioner.

(4) Any member withdrawing from the Fund shall, upon proper application, be paid all moneys the individual contributed to the Fund, provided, if all or any part of the moneys contributed to the Fund with respect to the member shall have been paid by any person, firm or corporation other than the member and notification of such action shall have been made to the Board at the time of said contribution and each of them, then, upon proper application, by the other person, firm or corporation, the moneys contributed to the Fund shall be paid to the other person, firm or corporation originally making the contribution, upon the withdrawal of the member.

"§ 118-29. Pro rata reduction of benefits when Fund insufficient to pay in full.—If, for any reason, the Fund created and made available for any purpose covered by this Article shall be insufficient to pay in full any pension benefits, or other charges, then all benefits or payments shall be reduced pro rata, for as long as the deficiency in amount exists. No claim shall accrue with respect to any amount by which a pension or benefit payment shall have been reduced.

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"§ 118-30. Provisions subject to future legislative change.—These pensions shall be subject to future legislative change or revision, and no member of the Fund, or any person, is deemed to have acquired any vested right to a pension or other payment provided by this Article.

"§ 118-31. Determination of creditable service; information furnished by applicants for membership.—The Board shall determine by appropriate rules and regulations the number of years' credit for service of firemen and rescue squad workers. Firemen and rescue squad workers who are now serving as such shall furnish the Board with information upon applying for membership as to previous service.

"§ 118-32. Length of service not affected by serving in more than one department or squad; transfer from one department or squad to another.—A fireman's or rescue squad worker's length of service shall not be affected by the fact that he may have served with more than one department or squad, and upon transfer from one department or squad to another, notice of the fact shall be given to the Board.

"§ 118-33. Effect of member being six months delinquent in making monthly payments.—Any member who becomes six months delinquent in making monthly payments required by G.S. 118-25 and G.S. 118-26 of this Article by the tenth of the month with respect to which the payment shall be due shall forfeit his membership in the Fund.

"§ 118-34. Exemptions of pensions from attachment; rights nonassignable.—The pensions provided are not subject to attachment, garnishments or judgments against the fireman or rescue squad worker entitled to them, nor are any rights in the Fund or the pensions or benefits assignable nor are the pensions subject to any State or municipal tax."

Sec. 2. The Fund established by Session Laws 1961 Chapter 980, G.S. 118-18 et seq., "The Firemen's Pension Fund" is made a part of the Fund established by this act as the "Firemen's and Rescue Squad Workers' Pension Fund."

Sec. 3. Article 3 of Chapter 143A is amended by adding a new section to read as follows:

"§ 143A-27A. North Carolina Firemen's and Rescue Squad Workers' Pension Fund; transfer.—The 'North Carolina Firemen's and Rescue Squad Workers' Pension Fund', as contained in Article 3 of Chapter 118 of the General Statutes is hereby transferred by a type II transfer to the Department of State Auditor."

Sec. 4. This act shall become effective January 1, 1982.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.
CHAPTER 1030
AN ACT TO APPROPRIATE FUNDS FOR THE MOUNTAIN HORTICULTURAL CROPS RESEARCH STATION NEAR FLETCHER.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to The University of North Carolina Board of Governors for fiscal year 1981-82 the sum of seventy-eight thousand dollars ($78,000) to develop the Mountain Horticultural Crops Research Station near Fletcher.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

CHAPTER 1031
AN ACT TO PROVIDE FUNDS FOR THE TREATMENT OF HEMOPHILIA.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Human Resources the sum of one hundred thousand dollars ($100,000) for fiscal year 1981-82 to be used for the treatment of hemophilia, including the blood products used in such treatment, at the medical facilities affiliated with the Bowman Gray School of Medicine, Duke University School of Medicine, East Carolina University School of Medicine, The University of North Carolina at Chapel Hill School of Medicine and other facilities designated in the guidelines to be developed by the Department of Human Resources pursuant to Section 2 of this act.

Sec. 2. The Department of Human Resources shall develop guidelines by January 1, 1982, for the use of these funds to assist those persons who require continuing treatment with blood, blood derivatives, or manufactured pharmaceutical products to avoid crippling or other effects associated with hemophilia, but who are unable to pay for the entire cost of these services.

Sec. 3. The Department of Human Resources shall develop the guidelines required by Section 2 of this act in consultation with at least one representative of the following: North Carolina Chapter of the National Hemophilia Foundation, Bowman Gray School of Medicine, Duke University School of Medicine, East Carolina University School of Medicine, and The University of North Carolina at Chapel Hill School of Medicine (Hemophilia Programs).

Sec. 4. This act shall not obligate the General Assembly to provide any additional funds at any time.

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.
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S. B. 286 CHAPTER 1032
AN ACT TO APPROPRIATE FUNDS FOR A VOCATIONAL TRAINING BUILDING AND EQUIPMENT AT THE EASTERN NORTH CAROLINA SCHOOL FOR THE DEAF.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Human Resources for fiscal year 1981-82 for a vocational training building at the Eastern North Carolina School for the Deaf the sum of four hundred thousand dollars ($400,000) for construction and equipment.

Sec. 2. The prohibitions on the use of State funds prescribed by G.S. 122-35.53(c) do not apply to any funds appropriated for the treatment of members of the class identified in Willie M. et. al. v. Hunt et. al. by the 1981 General Assembly. These funds may be used for, among other things, the alteration, improvement, or rehabilitation of real estate used by area mental health authorities.

Sec. 3. The Secretary of Human Resources may assign employees of the Department to serve as in-kind match for contracts with nonprofit corporations working to establish cost containment measures for statewide prepaid health contracts for medical services. This section expires July 1, 1983.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

S. B. 309 CHAPTER 1033
AN ACT APPROPRIATING FUNDS TO THE DEPARTMENT OF CULTURAL RESOURCES FOR THE USE OF OLD SALEM IN INTERPRETING THE HISTORY AND CULTURE OF EIGHTEENTH CENTURY PIEDMONT NORTH CAROLINA FOR SCHOOL CHILDREN WITH ADULT VISITORS.

The General Assembly of North Carolina enacts:

Section 1. In addition to any other appropriations for this purpose, there is appropriated from the General Fund to the Department of Cultural Resources the sum of twenty thousand dollars ($20,000) for the fiscal year 1981-82 as a grant to Old Salem, Inc., for the use of Old Salem in interpreting the history and culture of Eighteenth Century Piedmont North Carolina for school children and adult visitors.

Sec. 2. This appropriation and all appropriations for this purpose in the current operations appropriation act for the 1981-82 fiscal year shall become a part of the continuation budget of the Department of Cultural Resources.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.
S. B. 316  

CHAPTER 1034  
AN ACT TO APPROPRIATE FUNDS FOR THE YOUNG MEN'S INSTITUTE BUILDING IN ASHEVILLE, BUNCOMBE COUNTY. 

Whereas, in gratitude for the work of several hundred black citizens of Asheville who helped build Biltmore House, George Washington Vanderbilt constructed the YMI Building in 1892-93 to serve the local black community; and

Whereas, the YMI flourished as a social and cultural center for Asheville's black community for 30 years until the Great Depression; and

Whereas, the YMI Building was designed by Architect Richard Sharp Smith whose body of work represents a significant portion of Western North Carolina's finest turn-of-the-century and early-twentieth-century architecture; and

Whereas, the YMI Building housed a kindergarten and gymnasium as well as streetside businesses and, hence, is significant as an early example of a modern, multi-functional structure; and

Whereas, the YMI Cultural Center, Incorporated, purchased the YMI Building in 1979 in order to preserve the structure and return it to use as a community cultural and social center; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for the 1981-82 fiscal year ten thousand dollars ($10,000) for the purpose of exterior restoration and interior rehabilitation of the YMI Building, provided a like sum is raised by the YMI Cultural Center, Incorporated, in order to match the grant-in-aid on a dollar-for-dollar basis. YMI Cultural Center, Incorporated, may apply to the Division, from time to time, for the funds appropriated under this act, as it raises the matching funds.

Sec. 2. Funds appropriated in this act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

S. B. 377  

CHAPTER 1035  
AN ACT TO APPROPRIATE FUNDS FOR A GRANT-IN-AID TO THE FLORA MACDONALD EDUCATIONAL FOUNDATION, INC., IN ROBESON COUNTY. 

Whereas, the Flora MacDonald Educational Foundation, Inc., is a nonprofit corporation which owns the physical plant of the former Flora MacDonald College; and

Whereas, Flora MacDonald College, a Presbyterian College for women founded in 1896, was one of the leading women's colleges in southeastern North Carolina until its closing in 1961; and

Whereas, the buildings of the former Flora MacDonald College have been listed by the United States Department of the Interior in the National Register of Historic Places; and
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Whereas, the Flora MacDonald Educational Foundation, Inc., leases the property for educational and cultural activities and provides for the continuing maintenance of the facilities; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for the 1981-82 fiscal year the sum of twenty-four thousand dollars ($24,000) for the purpose of performing interior and exterior repairs to the main building of the former Flora MacDonald College, provided an amount of twenty-four thousand dollars ($24,000) is raised by the Flora MacDonald Educational Foundation, Inc., in order to match the grant-in-aid on a dollar for dollar basis.

Sec. 2. Funds appropriated in this act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

S. B. 398  CHAPTER 1036

AN ACT CONCERNING THE ESTABLISHMENT OF A MUSEUM SERVICE BRANCH OF THE NORTH CAROLINA MUSEUM OF HISTORY IN OLD FORT.

Whereas, financially stable, educationally oriented, community history museums are vital to the effective preservation, interpretation, and promotion of State and local history; and

Whereas, community history museums, located throughout North Carolina, are conscious of their potential and are actively seeking professional assistance in achieving this end; and

Whereas, most community history museums lack sufficient funds to obtain commercial consultation or technical services; and

Whereas, most community history museums are operated by enthusiastic, if untrained, volunteers who know little about the problems of artifact preservation or the creation of educational exhibitions; and

Whereas, the North Carolina Museum of History is responsible for and does, to the degree possible, assist community history museums in all phases of museum operations; and

Whereas, this assistance, to be effective, is needed on a regular basis, a level of service the North Carolina Museum of History currently cannot offer due to a lack of staff and funds; and

Whereas, a decentralized, regionally based, assistance program would more effectively meet the needs of community history museums; and

Whereas, a decentralized, regionally based, assistance program would also be more economical to operate given the length and breadth of North Carolina, the continuing rise in travel costs, and the increasing need to conserve petroleum; and

Whereas, an effective assistance program can be established in the State for community museums by establishing four service branches of the North Carolina Museum of History: one each to be located in the northeast, southeast, southwest, and northwest regions of North Carolina; and

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Whereas, the Mountain Gateway Museum, located in Old Fort, would be an excellent location for the service branch; and

Whereas, the board of Old Fort Historic Site, Inc., owner of the Mountain Gateway Museum, has expressed its willingness to transfer all property, both real and personal, held by Old Fort Historic Site, Inc., to the State for the purpose of establishing the Mountain Gateway Museum as the service branch of the North Carolina Museum of History; and

Whereas, utilization of the facilities of the Mountain Gateway Museum would significantly reduce the initial costs of establishing a service branch thus enabling the North Carolina Museum of History to increase its services to the citizens of southwest North Carolina and region's visitors; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Cultural Resources the sum of twenty-five thousand dollars ($25,000) for fiscal year 1981-82 for operating and maintaining a service branch of the North Carolina Museum of History to be located at the Mountain Gateway Museum, Old Fort, North Carolina.

Sec. 2. That the above appropriations be dependent on the duly constituted legal authority of Old Fort Historic Site, Inc., Old Fort, North Carolina, turning over to the State of North Carolina all property both real and personal now owned by Old Fort Historic Site, Inc., to become the absolute property of the State.

Sec. 3. It is the intention of the General Assembly that if the foregoing conditions are met, the State of North Carolina shall accept the said property for a museum service branch of the North Carolina Museum of History, Division of Archives and History, Department of Cultural Resources.

Sec. 4. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

S. B. 412

CHAPTER 1037

AN ACT TO APPROPRIATE FUNDS FOR RESTORATION OF THE HOFFMAN HOTEL.

Whereas, the Hoffman Hotel was built in 1852 and served as a focal point for the legal and educational activities in Dallas, North Carolina, the county seat of Gaston County, until 1911; and

Whereas, the Hoffman Hotel and the attached store building will be at the heart of and the largest structure of Historic Dallas Square, a reconstruction of Dallas, North Carolina, as it appeared during the 19th century; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Cultural Resources the sum of twenty-five thousand dollars ($25,000) for the fiscal year 1981-82 for the purpose of beginning the renovation of the Hoffman Hotel and an adjoining store building as a permanent site for the Gaston County Art and History Museum.

Sec. 2. This act is effective upon ratification.
CHAPTER 1037  Session Laws—1981

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

S. B. 425  CHAPTER 1038
AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF AGRICULTURE TO CONSTRUCT A FARMERS' MARKET IN GOLDSBORO.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Agriculture the sum of seventy thousand dollars ($70,000) for fiscal year 1981-82 to construct a farmers’ market in Goldsboro.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

S. B. 464  CHAPTER 1039
AN ACT TO APPROPRIATE FUNDS FOR A NEW ROOF AND REPAIRS TO THE LAKELAND ARTS CENTER.

Whereas, the Lakeland Arts Center has for three years provided counseling, recreational facilities, and exposure to the arts to Halifax County and the surrounding area; and

Whereas, over 100,000 people have attended performances of the arts at the center; and

Whereas, teachers from the center also teach in the public schools, thereby extending the center’s contributions to the State; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Cultural Resources for fiscal year 1981-82 the sum of twenty-five thousand dollars ($25,000) for a new roof and interior repairs to the Lakeland Arts Center in Littleton.

Sec. 2. There is appropriated from the General Fund to the General Assembly the sum of twenty-five thousand dollars ($25,000) for fiscal year 1981-82 to provide funds for the Utility Review Committee to forecast electric power needs in North Carolina.

Sec. 3. There is appropriated from the General Fund to the Department of Crime Control and Public Safety the sum of twenty-two thousand dollars ($22,000) for fiscal year 1981-82 for personnel.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.
Whereas, the public library is an essential educational and cultural institution; and

Whereas, the report of a legislative commission to study library support recommended in 1968 that the General Assembly affirm the principle that all citizens of North Carolina should have available to them adequate modern public library services and facilities, and that it is the responsibility of the State to share with local government the basic cost of reaching these; and

Whereas, the legislative commission recommended that the State should gradually assume equal responsibility for the cost of public library service with annual increases in State grants; and

Whereas, the annual increases have been retarded by recent financial conditions; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to Public Libraries-Subprogram State Aid to Public Libraries, for the fiscal year 1981-82 four hundred thirty-five thousand four hundred six dollars ($435,406) in addition to the previous General Fund appropriations for State Aid to Public Libraries for fiscal year 1981-82.

Sec. 2. That said additional funds shall be allocated in total to those public library systems, county, municipal, and regional, eligible and receiving State aid to Public Libraries on January 1, 1981.

Sec. 3. That said additional funds shall be allocated solely for and limited to the providing of an inflationary supplement to the already existing program of State aid to public libraries.

Sec. 4. That said funds shall be allocated to all eligible library systems, at the rate of a 10 percent (10%) inflation increase, based on the amounts of State aid received by those systems through the program of State aid to Public Libraries during the fiscal year 1980-81.

Sec. 5. It is the intent of this legislation to aid and assist all eligible public library systems in the State of North Carolina and to ensure that through the program of State aid to public libraries that all eligible library systems receive the basic grants they received for fiscal year 1980-81 plus a 10 percent (10%) inflation increase.

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.
CHAPTER 1041  Session Laws—1981

S. B. 501  CHAPTER 1041
AN ACT TO APPROPRIATE FUNDS FOR THE SENATOR LUTHER J. BRITT, JR., MEMORIAL GREENWAY LOCATED IN THE JACOB SWAMP WATERSHED.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Natural Resources and Community Development for fiscal year 1981-82 the sum of two hundred eighteen thousand dollars ($218,000) for the construction and development of the recreation area of the Jacob Swamp Watershed project.

Sec. 2. The appropriation made by this act shall be subject to the limitations of G.S. 139-54.

Sec. 3. The recreational area of the Jacob Swamp Watershed is hereby named the Senator Luther J. Britt, Jr., Memorial Greenway.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

S. B. 522  CHAPTER 1042
AN ACT TO APPROPRIATE FUNDS FOR THE TOWN CREEK INDIAN MOUND STATE HISTORIC SITE.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Cultural Resources the sum of thirty-nine thousand three hundred twenty-two dollars ($39,322) for the 1981-82 fiscal year for a site assistant, a building guide, the fabrication and installation of exhibits, and water system improvement for the Town Creek Indian Mound State Historic Site.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 1057  CHAPTER 1043
AN ACT TO APPROPRIATE FUNDS TO CONTINUE THE RESTORATION OF THE HISTORIC SPENCER RAILROAD SHOPS.

Whereas, the State of North Carolina has accepted 58 acres of land and the buildings thereon from Southern Railway Company at Spencer for the purpose of establishing a transportation museum; and

Whereas, the State spent one million two hundred fifty thousand dollars ($1,250,000) during the period 1979-81 to restore the steel super-structure, install a new roof and make certain masonry repairs to the parapet walls of the Back Shop, the principal building located on this land; and

Whereas, a safe and secure place to store and display the priceless artifacts that have been accumulated at the site is greatly needed; and

Whereas, the State recognizes that the Back Shop should be completed so that it can fill this need; Now, therefore,

The General Assembly of North Carolina enacts:
Section 1. There is appropriated from the General Fund to the Department of Cultural Resources the sum of one hundred fifty thousand dollars ($150,000) for fiscal year 1981-82 to be used only for a fence around the shops and other repairs.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

S. B. 607

CHAPTER 1044

AN ACT TO APPROPRIATE FUNDS FOR AN ADDITIONAL STAFF MEMBER FOR THE HEALTH ADVENTURE IN BUNCOMBE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Human Resources for fiscal year 1981-82 the sum of fifteen thousand dollars ($15,000) to fund an additional staff position for The Health Adventure in Buncombe County.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

S. B. 638

CHAPTER 1045

AN ACT TO APPROPRIATE FUNDS FOR THE NORTH CAROLINA MUSEUM OF LIFE AND SCIENCE.

Whereas, the North Carolina Museum of Life and Science, located in Durham, North Carolina, has, over the past 30 years, provided millions of the residents of this State with a Museum of Life and Science; and

Whereas, the museum has permanent displays of our environment, space exploration and historical data dealing with our total background; and

Whereas, the museum now owns 28 acres of land and has many buildings and exhibits; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund for the fiscal year 1981-82 to the Department of Cultural Resources for the continuation of capital improvements and operating funds the sum of one hundred thousand dollars ($100,000) for the use and benefit of the North Carolina Museum of Life and Science.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.
S. B. 667  

CHAPTER 1046  
AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT FOR A COOPERATIVE PROGRAM WITH THE NORTH CAROLINA BOTANICAL GARDENS.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Natural Resources and Community Development the sum of fifteen thousand dollars ($15,000) for the 1981-82 fiscal year for a cooperative program between the Parks and Recreation Division and the North Carolina Botanical Gardens to develop and present a series of natural history and environmentally interpretive programs suitable for field presentation in the State Parks at the Botanical Gardens and other appropriate sites and facilities throughout the State of North Carolina.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

S. B. 725  

CHAPTER 1047  
AN ACT TO APPROPRIATE FUNDS FOR THE OPERATION OF THE WEYMOUTH CENTER IN MOORE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The sum of ten thousand dollars ($10,000) is appropriated from the General Fund to the Department of Cultural Resources for the 1981-82 fiscal year for the Weymouth Center in Moore County, provided a matching amount of ten thousand dollars ($10,000) is raised by the Friends of Weymouth, Inc.

Sec. 2. The grant-in-aid provided by this act is for the enhancement of the cultural purposes of Weymouth Center and shall be expended in accordance with the guidelines and approval of the Department of Cultural Resources.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

S. B. 727  

CHAPTER 1048  
AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF HUMAN RESOURCES FOR A STATE ADULT CARE FUND.

The General Assembly of North Carolina enacts:

Section 1. The General Assembly shall appropriate funds from the General Fund to the Department of Human Resources for the purpose of providing adult day care services for eligible individuals. These services shall be provided in accordance with rules and regulations established by the Social Services Commission. The appropriations, together with county contributions for this purpose, shall be expended to provide adult day care services.

Sec. 2. There is appropriated from the General Fund to the Department of Human Resources the sum of three hundred ninety thousand dollars
($390,000) for fiscal year 1981-82 for the purpose of carrying out the provisions of this act.

Sec. 3. The Department shall report to the Legislative Research Commission on the implementation of this act no later than May 1, 1982.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

S. B. 774  
CHAPTER 1049  
AN ACT TO APPROPRIATE FUNDS FOR THE LIBERTY CART HISTORICAL DRAMA IN DUPLIN COUNTY.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Cultural Resources for fiscal year 1981-82 the sum of thirty-five thousand dollars ($35,000) as a grant-in-aid to the Liberty Cart historical drama in Duplin County.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

S. B. 779  
CHAPTER 1050  
AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF HUMAN RESOURCES FOR THE WILDERNESS CAMPING PROGRAM.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Human Resources for the 1981-82 fiscal year the sum of three hundred fourteen thousand nine hundred seventy-one dollars ($314,971) for the Eckerd Foundation Wilderness Camping Program.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

S. B. 784  
CHAPTER 1051  
AN ACT TO APPROPRIATE FUNDS TO THE SCHIELE MUSEUM OF NATURAL HISTORY AND PLANETARIUM, INC.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Cultural Resources the sum of fifty thousand dollars ($50,000) for fiscal year 1981-82 to be used for capital improvements and operating expenses of the Schiele Museum of Natural History and Planetarium, Inc., in Gastonia, North Carolina.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.
CHAPTER 1052  Session Laws—1981

H. B. 5  CHAPTER 1052

AN ACT TO RAISE THE PROPERTY TAX HOMESTEAD EXEMPTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-277.1(a), G.S. 105-277.1(b)(1) and G.S. 105-309(f) are amended by deleting the words “seven thousand five hundred dollars ($7,500)”, and inserting in lieu thereof the words “eight thousand five hundred dollars ($8,500)”.

Sec. 2. (a) On September 1 of each year, the tax collector of each county and the tax collector of each city shall furnish to the Secretary of Revenue a list containing the name and address of each person who has qualified in that year for the exemption provided in G.S. 105-277.1. The list shall also contain for each name the total amount of property exempted, the tax rate the property is subject to, and the product obtained by multiplying those two numbers by each other. The lists shall be accompanied by an affidavit attesting to the accuracy of the list, and shall all be on a form prescribed by the Secretary of Revenue.

(b) In addition to the list required by subsection (a) of this section, the county or city may provide a supplemental list on December 1.

(c) The Secretary of Revenue may, for cause, grant an extension for the submission of the list required by this section.

Sec. 3. After receiving a certified list under Section 2 of this act, the Secretary of Revenue shall, within 60 days, pay to the county or city fifteen percent (15%) of the total for the entire list of the product obtained by multiplying the tax exemption for each taxpayer times the applicable tax rate.

Sec. 4. Any funds received by any county or city pursuant to this act because the county or city was collecting taxes for another unit of government or special district shall be credited to the funds of that other unit or district in accordance with regulations issued by the Local Government Commission.

Sec. 5. This act shall become effective January 1, 1982.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 112  CHAPTER 1053

AN ACT TO MAKE ADJUSTMENTS IN THE SALARIES FOR CERTAIN SCHOOL EMPLOYEES ADVERSELY AFFECTED BY THE RECENT SALARY SCHEDULE REVISION.

The General Assembly of North Carolina enacts:

Section 1. Section 19.1(d) of Chapter 1137 of the Session Laws of 1979 (2nd Session 1980) is amended to read as follows:

“(d) When elevated to a higher pay grade, an educator will enter that pay grade at a level one step above the current salary or will be brought to the minimum of the new pay grade, whichever is higher; provided, (1) in the case of a teacher who was awarded a higher teaching certificate between September 1, 1979, and September 1, 1980, as a result of the receipt of a new degree from an institution of higher education such person shall be entitled to credit for all teaching experience earned prior to July 1, 1980, recognizable under State Board of Education regulations in effect on June 30, 1980, in determining placement on the new salary schedule; (2) in the case of a person occupying a State funded supervisor’s position and moved to an assistant superintendent’s
position between July 1, 1980, and the beginning of the 1980-81 school year such person shall be entitled to credit for previous experience as an assistant superintendent while occupying a State funded supervisor’s position in determining placement on the new salary schedule for assistant superintendents; and (3) in the case of a principal or superintendent moved from a lower paying principal’s or superintendent’s position between July 1, 1980, and the beginning of the 1980-81 school year that principal or superintendent shall be entitled to placement on the new salary schedule based on the size of the school breakdown (for principals) or ADM breakdown (for superintendents) used under rules of the State Board of Education in effect on June 30, 1980.”

Sec. 2. This act is effective on and after July 1, 1981.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 212

CHAPTER 1054

AN ACT TO APPROPRIATE FUNDS FOR THE HOKE COUNTY HEADQUARTERS OF THE DIVISION OF FOREST RESOURCES.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Natural Resources and Community Development for fiscal year 1981-82 the sum of twenty-five thousand dollars ($25,000) for construction of an office and work area at the Hoke County Headquarters of the Division of Forest Resources.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 389

CHAPTER 1055

AN ACT TO PROVIDE FUNDS FOR THE LIVESTOCK FEED ADVISORY SERVICE.

Whereas, it is essential that farmers are provided with complete information on the nutrient content of feeds in order to balance rations and become more efficient in animal production; and

Whereas, the Department of Agriculture’s Forage Testing Service’s sample load has greatly increased since its initial appropriation; and

Whereas, if additional funds are not appropriated to meet the testing demand created by the increased sample load, many of this State’s farmers will be forced to send samples to a private laboratory for analysis, at great cost to the farmers and, ultimately, to consumers; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Agriculture the sum of sixty-two thousand six hundred seventy dollars ($62,670) for fiscal year 1981-82 for the Livestock Feed Advisory Service.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.
H. B. 402

CHAPTER 1056

AN ACT TO APPROPRIATE FUNDS FOR THE COMPLETION OF THE REHABILITATION OF THE GROVE (BLOUNT-BRIDGERS HOUSE) IN TARBORO FOR USE AS AN ART GALLERY, ARTS EDUCATIONAL CENTER AND COMMUNITY CIVIC CENTER.

Whereas, the Grove, constructed in Tarboro in 1808 by General Thomas Blount, is one of the finest examples of North Carolina Federal architecture (National Historic Register Data: Grove (Blount-Bridgers House), Bridgers Street, Tarboro, Edgecombe County, February 18, 1971); and

Whereas, General Thomas Blount served in the Revolutionary War, was a member of the North Carolina Senate, an early trustee of The University of North Carolina, and served North Carolina in the United States House of Representatives for 11 years; and

Whereas, succeeding families residing at the Grove included such notable men as Colonel Louis D. Wilson, a trustee of The University of North Carolina, member of the North Carolina Legislature and colonel in the Mexican War; and Colonel John L. Bridgers, prominent Tarboro attorney and landowner, member of the North Carolina Legislature and Civil War officer; and

Whereas, the estate of the late Hobson Pittman, a native of Tarboro acclaimed internationally as one of the foremost American impressionist artists, has made available to the Town of Tarboro an invaluable collection of Pittman's artwork, furniture and personal memorabilia, on the condition that the Town of Tarboro provide a suitable gallery for such work; and

Whereas, it is fitting that an appropriate gallery be established in order to fulfill the Pittman bequest and to procure these valuable art treasures for all North Carolinians; and

Whereas, a definite need for a community civic center and meeting place in Tarboro has been expressed by individuals, clubs and other civic organizations; and

Whereas, the Town of Tarboro plans to adaptively re-use the Grove as a gallery for Pittman's artwork and meeting place for civic organizations; and

Whereas, the Town of Tarboro has received grants from the North Carolina General Assembly (1979-81 biennium), the Heritage Conservation and Recreation Service, the Z. Smith Reynolds Foundation and donations and pledges from private individuals and businesses for the purpose of beginning the first phase of a rehabilitation program for the Grove; and

Whereas, construction on this first phase is underway and funds are now needed to complete the project; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for the 1981-82 fiscal year the sum of twenty-five thousand dollars ($25,000) which will be available to the Town of Tarboro for the purpose of completing a phased program of rehabilitation of the Grove (Blount-Bridgers House), provided that like amounts are raised by the Town of Tarboro in order to match the grant in-aid on a dollar-for-dollar basis, and provided that the Town of Tarboro enters into a binding contract with Mrs. Donald B. Gordon for the donation of numerous paintings by Hobson Pittman.
Sec. 2. Funds appropriated in this act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 403

CHAPTER 1057

AN ACT TO APPROPRIATE FUNDS FOR A NEW SOUTHEASTERN REGIONAL STATE OFFICE BUILDING IN FAYETTEVILLE, NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Administration the sum of three hundred thousand dollars ($300,000) for fiscal year 1981-82 to be placed in the reserve created in Chapter 957 of the 1979 Session Laws for construction costs of a new State office building to be located in the City of Fayetteville.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 404

CHAPTER 1058

AN ACT TO APPROPRIATE FUNDS FOR THE INSTALLATION OF SECURITY AND FIRE ALARM SYSTEMS AND TO DEVELOP ADDITIONAL EXHIBITS TO HISTORIC BETHABARA, INC.

Whereas, Historic Bethabara was established in 1968 by virtue of the laws of North Carolina; and

Whereas, Historic Bethabara, founded in 1753, was the first Moravian settlement in North Carolina; and

Whereas, historic structures dating to 1782, excavated archaeologically significant foundations of over thirty early buildings, and a reconstructed fort reflect a way of life in colonial North Carolina; and

Whereas, since its inception, Historic Bethabara has received all of its monetary support from local sources; and

Whereas, the purpose of Historic Bethabara is to interpret to the public the historic, spiritual and cultural significance of the first Moravian settlement in North Carolina and the birthplace of the Winston-Salem/Forsyth County community; and

Whereas, the artifacts being preserved are irreplaceable and reflect a way of life in the history of North Carolina; and

Whereas, the installation of security and fire alarm systems is essential to the protection and preservation of these artifacts; and

Whereas, the installation of additional interpretive exhibits can more fully acquaint visitors with these artifacts and the historical significance of the area; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund, Department of Cultural Resources, fiscal year 1981-82 the sum of seven thousand dollars ($7,000) for the purpose of installing security and fire alarm systems and of
developing additional interpretive exhibits in Historic Bethabara, provided a like amount of seven thousand dollars ($7,000) is raised by Historic Bethabara, Inc., in order to match the grant-in-aid on a dollar for dollar basis.

Sec. 2. Funds appropriated in this act shall be expended in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 421

CHAPTER 1059

AN ACT TO APPROPRIATE FUNDS FOR THE DEVELOPMENT AND IMPROVEMENT OF THE SNOW CAMP DRAMA SOCIETY'S HISTORIC AND CULTURAL ACTIVITIES AND PROGRAMS.

Whereas, the Snow Camp Drama Society was founded as an educational, historical and cultural nonprofit corporation on January 20, 1971; and

Whereas, the Snow Camp Drama Society has been in continuous operation and encouraged by widespread community support since 1971 and is a national leader in developing a repertory of plays in conjunction with its production of the outdoor drama, “The Sword of Peace”, every year since 1974; and

Whereas, the outdoor drama, “The Sword of Peace”, has been seen by an estimated 53,772 people since productions began in 1974; and

Whereas, the outdoor drama, “The Sword of Peace”, has made major historical and cultural contributions to the State and nation; and

Whereas, the Quakers of North Carolina have made a significant contribution to our historical heritage; and

Whereas, the Quaker Museum located on the grounds of the outdoor drama depicts the life, times, teachings and contributions of the Quaker people in North Carolina and the nation; and

Whereas, the cultural benefits of all the activities of the Snow Camp Drama Society had made a significant economic impact on the tourist industry for Alamance County and the State of North Carolina; and

Whereas, “The Sword of Peace” deserves and needs increased financial support; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund the sum of twenty thousand dollars ($20,000) for the fiscal year 1981-82 to the Department of Cultural Resources, North Carolina Arts Section, for the purpose of further developing and supporting “The Sword of Peace” produced by the Snow Camp Drama Society.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.
H. B. 424   CHAPTER 1060

AN ACT TO APPROPRIATE FUNDS FOR A GRANT-IN-AID TO HISTORIC CABARRUS, INC., IN CABARRUS COUNTY.

Whereas, Historic Cabarrus, Inc., is a nonprofit corporation responsible for the restoration and adaptive reuse of the old Cabarrus County Courthouse; and
Whereas, the old Cabarrus County Courthouse is one of North Carolina’s outstanding examples of the Second Empire style of architecture; and
Whereas, the century old courthouse in Concord has been listed by the United States Department of the Interior in the National Register of Historic Places; and
Whereas, Historic Cabarrus, Inc., has leased the old Courthouse from Cabarrus County for adaptive reuse as a community arts center; and
Whereas, Historic Cabarrus, Inc., has raised more than one hundred twenty-five thousand dollars ($125,000) in actual contributions and fifty thousand dollars ($50,000) in donated materials for emergency repairs; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for the 1981-82 fiscal year the sum of fifty thousand dollars ($50,000) for the purpose of the interior and exterior restoration and rehabilitation of the old Cabarrus County Courthouse, provided an amount of fifty thousand dollars ($50,000) is raised by Historic Cabarrus, Inc., in order to match the grant-in-aid on a dollar for dollar basis. The corporation may apply to the division from time to time for the funds appropriated under this act as it raises the matching funds.

Sec. 2. Funds appropriated in this act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 447   CHAPTER 1061

AN ACT TO PROVIDE ADDITIONAL SUPERVISORY PERSONNEL AT THE TIDEWATER AND CLINTON RESEARCH STATIONS.

Whereas, the research programs at the Tidewater Research Station and at the Horticultural Crops Research Station at Clinton have intensified significantly; and
Whereas, this intensification has underscored the need for proper supervision of the greatly increased, ongoing research and the need for certain additional supervisory and other personnel to guarantee that proper leadership and guidance be given to these rapidly growing research programs; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Agriculture the sum of thirty-one thousand nine hundred seventy-two dollars ($31,972) for fiscal year 1981-82 for additional personnel at
CHAPTER 1061  Session Laws—1981

the Horticultural Crops Research Station at Clinton to permit expanded research in horticultural crops.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 487  CHAPTER 1062
AN ACT TO APPROPRIATE FUNDS FOR A FARMERS' MARKET IN NEW BERN.

Whereas, for many years, New Bern and Craven County have recognized the need to provide a central market location for farmers and fishermen and to offer consumers a variety of fresh foods at one location; and

Whereas, the New Bern Curb Market was established in the late twenties and is still in use although it has severely deteriorated facilities and limited parking and sales space; and

Whereas, a better facility is needed because of increased population, reduced farm profits, inflated food prices and ever increasing fuel costs; and

Whereas, the City of New Bern has endorsed the market idea and has pledged for the Farmers' Market almost two acres of land in "Bicentennial Park", an area which is readily accessible, has more than adequate space, is readily visible from the U.S. 70 bypass, adjoins the downtown business district and is only one block from Tryon Palace; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Agriculture the sum of one hundred twenty-five thousand dollars ($125,000) for the 1981-82 fiscal year for the construction of a Farmers' Market in the City of New Bern.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 496  CHAPTER 1063
AN ACT TO APPROPRIATE FUNDS FOR THE DEVELOPMENT OF INTERPRETIVE EXHIBITS AND TO UPGRADE STORAGE FACILITIES AT THE CLEVELAND COUNTY HISTORICAL MUSEUM.

Whereas, the Cleveland County Historical Museum was chartered in 1976 by virtue of the laws of North Carolina; and

Whereas, the purpose of the Cleveland County Historical Museum is to collect, preserve and utilize historically significant artifacts and to develop interpretive museum programs for the promotion and teaching of Cleveland County history; and

Whereas, the amount of ten thousand dollars ($10,000) was appropriated by the North Carolina General Assembly since 1976 for the development of the museum; and

Whereas, the museum, located in a historic courthouse, stresses local history and its relationship to life in the area; and

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Whereas, to effectively teach the history of Cleveland County and North Carolina through the use of exhibits containing original artifacts, additional exhibit cases are needed to protect and display those artifacts; and
Whereas, to adequately protect those artifacts when not on display, additional storage facilities are needed; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Cultural Resources for fiscal year 1981-82 the sum of ten thousand dollars ($10,000) for the purpose of developing interpretive exhibits and upgrading storage facilities in the Cleveland County Historical Museum, provided a like amount of ten thousand dollars ($10,000) for fiscal year 1981-82 is raised by the Cleveland County Historical Association in order to match the grant-in-aid on a dollar for dollar basis.
Sec. 2. Funds appropriated in this act shall be expended in accordance with G.S. 121-11 and G.S. 143.2.
Sec. 3. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 508

CHAPTER 1064

AN ACT TO PROVIDE FUNDS FOR THE EPILEPSY INFORMATION SERVICE.

Whereas, epilepsy affects more of North Carolina's citizens than cerebral palsy, muscular dystrophy and multiple sclerosis combined; and
Whereas, although with the proper diagnosis, treatment and education, most people with epilepsy are able to lead normal seizure-free lives, marrying, bearing children and pursuing rewarding careers, epilepsy is one of the most misunderstood and stigmatizing disorders of our time; many who could easily be helped struggle to conceal their condition, and the general public reinforces their concealment by its general ignorance and fear of epilepsy; and
Whereas, the Epilepsy Information Service, established in July, 1979, has promised comprehensive programs providing information, education and counseling both for those with epilepsy and for the general public interested in understanding this disorder, and has so far been able successfully to assist more than 4,000 people with epilepsy and their families; and
Whereas, it is in the vital interest of all North Carolinians to continue the Epilepsy Information Service's programs, not only because so many citizens have epilepsy but also because society as a whole can only benefit from understanding the nature of the disorder and the many and various resources for treatment; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Human Resources the sum of seventy-five thousand dollars ($75,000) for fiscal year 1981-82 to provide funds for the programs of the Epilepsy Information Service.
Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 10th day of October, 1981.

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CHAPTER 1065  Session Laws—1981

H. B. 512  CHAPTER 1065
AN ACT TO APPROPRIATE FUNDS FOR COMMUNITY-BASED ALTERNATIVE PROGRAMS FOR JUVENILES.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Division of Youth Services, Department of Human Resources, the sum of five hundred thousand dollars ($500,000) for fiscal year 1981-82, for community-based alternatives for juveniles.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 527  CHAPTER 1066
AN ACT TO APPROPRIATE FUNDS FOR A WILDLIFE LANDING ON THE ROANOKE RIVER.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the North Carolina Wildlife Resources Commission the sum of twelve thousand dollars ($12,000) for the 1981-82 fiscal year for the purpose of constructing a wildlife landing on the Roanoke River in Northampton County or Halifax County.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 540  CHAPTER 1067
AN ACT TO PROVIDE ADDITIONAL ASSISTANCE TO THE DEPARTMENT OF JUSTICE.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Justice the sum of one hundred thirty-two thousand five hundred seventy-seven dollars ($132,577) for fiscal year 1981-82 to provide two SBI Intelligence Analysts, one SBI agent for drug smuggling, two PIN Systems Program Analysts, and one statistician. In addition, the Department may, in lieu of hiring any or all of the eight additional SBI agents authorized by House Bill 1392, 1981 Session, hire other appropriate criminal justice personnel.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.
H. B. 543  

CHAPTER 1068

AN ACT TO APPROPRIATE FUNDS FOR THE HOTEL FREEMAN (PEARL) HISTORICAL SITE IN WINDSOR.

Whereas, the Hotel Freeman in Windsor was constructed before the Civil War; and

Whereas, the Hotel Freeman was the best known of the hotels in Windsor, which in the 19th century was a center for steamboat and rail traffic; and

Whereas, the hotel is of historical and architectural significance because of the Greek Revival exterior and the number of excellent Greek Revival doors; and

Whereas, the importance of the hotel in the life of Windsor was reflected in a story in a local newspaper following a severe fire in the town in 1888, when the newspaper said that “Freeman and Mizell’s large white hotel stood out like a medieval castle on a plain”; and

Whereas, with restoration the Hotel Freeman can be used as a Chamber of Commerce, a home for the Historic Properties Commission, an office building with space available for rent and can also be used to entertain industrial clients; and

Whereas, a State appropriation for restoration of the hotel will be matched by the Town of Windsor and by private contributions; Now, therefore, the General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Cultural Resources, Division of Archives and History, the sum of twenty thousand dollars ($20,000) for the 1981-82 fiscal year for an adaptive restoration of the Hotel Freeman (Pearl) by the Town of Windsor.

Sec. 2. Funds appropriated by this act shall not be expended unless a like amount is raised to match the grant-in-aid on a dollar for dollar basis.

Sec. 3. Funds appropriated in this act shall be expended in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 545  

CHAPTER 1069

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT FOR THE NATIONAL MAIN STREET CENTER PROJECT.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Natural Resources and Community Development the sum of fifty thousand dollars ($50,000) for fiscal year 1981-82 for the National Main Street Center Project, to be allocated by the department in equal parts of ten thousand dollars ($10,000) each to the municipalities of New Bern, Salisbury, Shelby, Tarboro and Washington to assist in carrying out the National Main Street Center Project in those municipalities.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.
CHAPTER 1070  Session Laws—1981

H. B. 577  CHAPTER 1070
AN ACT TO APPROPRIATE FUNDS FOR A GRANT-IN-AID TO HISTORIC JAMESTOWN SOCIETY, INC., IN GUILFORD COUNTY.

Whereas, Historic Jamestown Society, Inc., is a nonprofit corporation responsible for the restoration and adaptive reuse of the Richard Mendenhall Plantation; and

Whereas, the Richard Mendenhall Plantation House in Jamestown, Guilford County, was constructed about 1811 and is part of a well preserved complex of Quaker style plantation buildings; and

Whereas, its builder, Richard Mendenhall, was a dedicated and influential member of the North Carolina Manumission Society, serving as president at its height in 1825-26; and

Whereas, Richard Mendenhall’s son, Nereus Mendenhall, was an educator and principal supporter of the New Garden Boarding School, which later evolved into Guilford College; and

Whereas, the Richard Mendenhall House has an historic association with the promotion of basic human rights, and with education, social reform, and philanthropy; and

Whereas, the one hundred and seventy year old plantation has been listed by the United States Department of the Interior in the National Register of Historic Places; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for the 1981-82 fiscal year the sum of two thousand two hundred forty dollars ($2,240) for the purpose of interior and exterior repairs and rehabilitation of the Plantation House, provided a like amount of two thousand two hundred forty dollars ($2,240) is raised by Historic Jamestown Society, Inc., in order to match the grant-in-aid on a dollar-for-dollar basis.

Sec. 2. It is the intent of the North Carolina General Assembly that this total of two thousand two hundred forty dollars ($2,240) in the 1981-82 fiscal year shall be the final appropriation for the rehabilitation program for the Richard Mendenhall Plantation House in Jamestown, Guilford County.

Sec. 3. Funds appropriated in this act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.
H. B. 579

CHAPTER 1071

AN ACT TO APPROPRIATE FUNDS FOR A GRANT-IN-AID FOR THE
RESTORATION AND REHABILITATION OF THE OLD UNION
COUNTY COURTHOUSE.

Whereas, the Old Union County Courthouse, constructed in 1886, is one of
North Carolina’s finest examples of Victorian civic architecture; and
Whereas, the ninety-five year old courthouse has been listed by the United
States Department of the Interior in the National Register of Historic Places; and
Whereas, the County of Union is dedicated to the continued preservation
and use of this fine structure and has already raised and expended over forty-five thousand dollars ($45,000) for the stabilization of the exterior of the
courthouse; Now, therefore.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the
Division of Archives and History, Department of Cultural Resources, for the
1981-82 fiscal year the sum of one hundred eighteen thousand seven hundred five dollars ($118,705) for the purpose of interior and exterior restoration and
rehabilitation of the Old Union County Courthouse, provided a like amount of
one hundred eighteen thousand seven hundred five dollars ($118,705) is raised
by the County of Union in order to match the grant-in-aid on a dollar-for-dollar basis.

Sec. 2. Funds appropriated in this act shall be expended only in
accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 3. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 10th day of
October, 1981.

H. B. 581

CHAPTER 1072

AN ACT TO APPROPRIATE FUNDS FOR THE NORTH CAROLINA
RHODODENDRON FESTIVAL IN MITCHELL COUNTY.

Whereas, the North Carolina Rhododendron Festival is one of the largest
and most beautiful events held in the South each June; and
Whereas, the festival had its beginning in 1947, as a means of promoting
the world’s largest natural rhododendron gardens, which are located on
beautiful Roan Mountain in Mitchell County; and
Whereas, the festival is also designed to help promote the tourist industry
in North Carolina; and
Whereas, the festival is sponsored by the North Carolina Rhododendron
Festival, a nonprofit corporation; and
Whereas, the festival stimulates the economic growth of western North
Carolina, which is in dire need of a constant stimulant for its economy; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the North
Carolina Rhododendron Festival Association, Inc., the sum of five thousand

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dollars ($5,000) for fiscal year 1981-82, to put on the Rhododendron Festival in
Mitchell County.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of
October, 1981.

H. B. 583    CHAPTER 1073
AN ACT TO APPROPRIATE FUNDS FOR THE JOHN CARSON HOUSE AT
PLEASANT GARDENS IN MCDOWELL COUNTY.

Whereas, the John Carson House on U. S. 70 west of Marion is one of
North Carolina's richest antebellum architectural resources; and

Whereas, the Carson House grew from a single-pen log house built by John
Carson before 1810 to a grand vernacular Greek Revival mansion by the 1840's; and

Whereas, the Carson family of McDowell County was an outstanding
pioneer family in the history of Western North Carolina; and

Whereas, John Carson and three of his sons served in the State
Legislature, and one son, Samuel Price Carson, served three terms as a United
States Congressman; and

Whereas, the historic Carson House was an important center of social and
political activity and was visited by Davy Crockett and possibly others of
national stature; and

Whereas, the Carson House Restoration Corporation has been operating
the house as a museum of local history since 1964 to the benefit of thousands of
North Carolinians and to date has had no State funds available for use in
repairing and improving the structure; and

Whereas, the Carson House Restoration Corporation has received several
awards and citations for its efforts on the public's behalf, including most
recently an award of merit from the North Carolina Preservation Society; Now,
therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the
Division of Archives and History, Department of Cultural Resources the sum of
ten thousand dollars ($10,000) for fiscal year 1981-82 for the purpose of
conducting historical research on the Carson House, and for making needed
repairs, upgrading display equipment, and installing burglar and fire alarm
systems at the Carson House, and for relocating and restoring the original John
Carson cabin on the Carson House site, provided like sums are raised by the
Carson House Restoration Corporation in order to match the grant-in-aid on a
dollar-for-dollar basis.

Sec. 2. Funds appropriated in this act shall be expended only in
accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of
October, 1981.

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H. B. 585

CHAPTER 1074
AN ACT TO APPROPRIATE FUNDS FOR HISTORIC PRESERVATION IN THE TOWN OF MURFREESBORO.

Whereas, the General Assembly of 1967 enacted a bill establishing the Historic Murfreesboro Commission; and
Whereas, the Historic Murfreesboro Commission with the Murfreesboro Historical Association, Inc., has greatly enhanced the character and quality of one of North Carolina's most historic communities; and
Whereas, the citizens of Murfreesboro have generously donated more than one hundred fifty thousand dollars ($150,000) in cash and two hundred fifty thousand dollars ($250,000) in real and personal property and various museum artifacts for historic preservation in the community; and
Whereas, funds are needed to restore the interior of the John Wheeler House, which was constructed around 1814 and which has been accepted in the National Register of Historic Places, and to renovate the Murfree Law Office which is located in the Historic District in Murfreesboro; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, the sum of fifty thousand dollars ($50,000) for the 1981-82 fiscal year for the restoration of the John Wheeler House and the renovation of the Murfree Law Office in Murfreesboro.

Sec. 2. Funds appropriated in this act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 594

CHAPTER 1075
AN ACT TO APPROPRIATE MATCHING FUNDS TO ASSIST IN THE CONTINUED RESTORATION OF STONEWALL IN NASH COUNTY.

Whereas, Stonewall, also known as the Lewis House, was built about 1830 by Bennett Bunn as the mansion house for his Little Falls Plantation and is an exceptional antebellum plantation house; and
Whereas, the interior of Stonewall is a testament to a master craftsman, whose work is among the finest examples of the Federal style in this State; and
Whereas, Stonewall is listed in the National Register of Historic Places; and
Whereas, Stonewall is presently leased to the Nash County Historical Association, Inc., by Rocky Mount Mills, which has agreed to convey the property to the association; and
Whereas, the Nash County Historical Association, Inc., has implemented plans to preserve Stonewall by completing the exterior restoration; and
Whereas, the Nash County Historical Association, Inc., has demonstrated public support for the restoration of Stonewall by raising eighty-six thousand five hundred dollars ($86,500) from local private donations, private foundation grants and local projects; and
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Whereas, the Nash County Historical Association, Inc., is preserving Stonewall as one of the chief architectural monuments of North Carolina and will open the house to the public for its educational and historical benefit; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, the sum of twenty thousand dollars ($20,000) for fiscal year 1981-82 for the continued restoration and interior rehabilitation of Stonewall, provided the Nash County Historical Association, Inc., raises an amount equal to this grant-in-aid to match the grant on a dollar-for-dollar basis. The historical association may periodically apply to the division for the funds appropriated under this act as it raises the matching funds. Any appropriated money not used or not matched shall revert to the General Fund.

Sec. 2. It is the intent of the North Carolina General Assembly that this total of twenty thousand dollars ($20,000) for fiscal year 1981-82 shall be the final appropriation for the restoration and interior rehabilitation of Stonewall.

Sec. 3. Funds appropriated in this act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 612  CHAPTER 1076

AN ACT TO APPROPRIATE FUNDS FOR PLANNING AN ANDREW JACKSON MEMORIAL.

Whereas, the State of North Carolina and its citizens have long noted and recognized the origins and early life of Andrew Jackson, the nation's seventh president, in the Waxhaws region along the North Carolina-South Carolina border; and

Whereas, Andrew Jackson, one of the nation's most important military leaders and statesmen, had his historic roots and early experiences in the Waxhaws, was wounded in the American Revolution while only 13 years of age, was schooled in the Waxhaws region, had his legal training in Salisbury from 1784 to 1787, practiced law in Western North Carolina during 1787 and 1788, and then participated in the creation of the State of Tennessee while that land was a part of North Carolina; and

Whereas, it is important that the State of North Carolina recognize the origins and early life of this outstanding national leader in North Carolina; and

Whereas, in 1980 the Governor did appoint by Executive Order 46 the Andrew Jackson Memorial Committee to plan an appropriate memorial in present day Union County, North Carolina; and

Whereas, the Andrew Jackson Memorial Committee did conclude that further archaeology and research are needed for historic sites in Union County related to the life of Andrew Jackson, and that further study needs to be given to the Waxhaw amphitheatre and to the drama presented there; Now, therefore,

The General Assembly of North Carolina enacts:

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Section 1. There is appropriated from the General Fund to the Department of Cultural Resources, Division of Archives and History, the sum of sixty-one thousand fifty dollars ($61,050) for the fiscal year 1981-82 for the necessary research, archaeological investigations, and theatrical consultant services.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 622  CHAPTER 1077
AN ACT TO APPROPRIATE FUNDS FOR THE CONTINUED RESTORATION OF THE deROSSET HOUSE IN WILMINGTON.

Whereas, Wilmington has played a vital role in the history and development of North Carolina from the early days of settlement; and
Whereas, it is desirable to preserve and use for the public benefit structures which reflect the history and life of the City of Wilmington; and
Whereas, the Historic Wilmington Foundation, Incorporated, has participated actively in preservation activities in Wilmington for a number of years; and
Whereas, the Historic Wilmington Foundation, Incorporated, has acquired for preservation purposes the deRosset House, one of Wilmington’s grandest antebellum Greek Revival/Italianate style dwellings, built for Dr. Armand J. deRosset III, a physician turned merchant; and
Whereas, the Historic Wilmington Foundation, Incorporated, has made significant progress in its efforts to preserve the deRosset House by restoring much of the exterior, replacing the roof, conducting extensive historical research; and
Whereas, planning for completion of the exterior restoration has been done and interior planning is underway; and
Whereas, additional funds are needed to complete the exterior restoration and begin the interior restoration of the deRosset House; Now, therefore,
The General Assembly of North Carolina enacts:

Section 1. The sum of twenty-five thousand dollars ($25,000) is appropriated from the General Fund to the Department of Cultural Resources for the 1981-82 fiscal year for the continued restoration of the deRosset House in Wilmington, provided that the Historic Wilmington Foundation, Incorporated, raises twenty-five thousand dollars ($25,000) during the 1981-82 fiscal year for this restoration. Funds appropriated in this act shall only be expended in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

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H. B. 636  CHAPTER 1078
AN ACT TO APPROPRIATE ADDITIONAL FUNDS TO THE NORTH CAROLINA AGENCY FOR PUBLIC TELECOMMUNICATIONS FOR ITS MEDIA OPERATIONS.

Whereas, the North Carolina Agency for Public Telecommunications was created to develop ways of using modern telecommunications to deliver public services in the most cost effective way; and
Whereas, APT was charged to coordinate and centralize media production and distribution so as to curtail proliferation and duplication of media facilities for the delivery of public services; and
Whereas, APT has identified State media equipment needs so that public services can be delivered more efficiently; and
Whereas, APT has some funds in hand; and has in prospect the receipt of funds mostly from nonstate sources sufficient to establish the core of a media production and distribution facility for State use; and
Whereas, APT was established not only as a State agency but also as a nonprofit corporation intended to bring in revenues in support of its continuance; and
Whereas, a substantial part of APT’s revenues may be expected to result from receipts for media services from other public agencies; and
Whereas, technical personnel are required to establish and maintain the media equipment; and
Whereas, a State appropriation invested in technical personnel will enable APT to bring in revenues which can in future years support such personnel; Now, therefore,
The General Assembly of North Carolina enacts:

Section 1. There is appropriated to the Department of Administration from the General Fund the sum of one hundred thousand dollars ($100,000) for fiscal year 1981-82 for the media operations of the North Carolina Agency for Public Telecommunications.

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 641  CHAPTER 1079
AN ACT TO ENHANCE THE HIGHWAY HISTORICAL MARKER PROGRAM.

Whereas, highway historical markers are an important means of conveying historical information to the citizens of North Carolina as well as to travelers on the highways of the State;
Whereas, the annual appropriation for the erection of highway historical markers has remained constant for 30 years while the cost of individual markers has increased sixfold; and
Whereas, the present appropriation is insufficient to provide maintenance to those markers already approved let alone mark new points of historic interest as was originally intended by the General Assembly; Now, therefore,
The General Assembly of North Carolina enacts:

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Section 1. There is appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, the sum of ten thousand dollars ($10,000) for fiscal year 1981-82 for the purpose of designing and fabricating North Carolina highway historical markers and for maintaining and replacing as necessary those highway historical markers which have previously been erected. These funds are to be disbursed annually following the depletion of funds expended by the Department of Transportation pursuant to G.S. 136-42.3.

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 646 CHAPTER 1080
AN ACT TO APPROPRIATE FUNDS TO MOVE AND REHABILITATE HISTORIC RICHMOND HILL HOUSE IN BUNCOMBE COUNTY.

Whereas, Richmond Pearson, son of North Carolina State Supreme Court Chief Justice Richmond Pearson of Yadkin County, served in the North Carolina Legislature and the United States Congress, and held numerous diplomatic posts during the administration of Theodore Roosevelt; and
Whereas, upon retiring from public service Richmond Pearson settled in Asheville and developed on a hilltop overlooking the French Broad River an estate named Richmond Hill after his father's home in Yadkin County; and
Whereas, Richmond Hill House was designed by Architect James G. Hill, former supervising architect for the U.S. Treasury, and since its construction in 1889 has been a Buncombe County landmark; and
Whereas, Richmond Hill House is a large and impressive Queen Anne style structure, the sole grandiose frame mansion surviving from Asheville's ebullient late 19th-century boom period; and
Whereas, the Preservation Society of Asheville and Buncombe County has obtained ownership of Richmond Hill House but has to move the structure off its present site in order to save it; Now, therefore,
The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources the sum of five thousand dollars ($5,000) for fiscal year 1981-82 to purchase a new site, and moving and rehabilitating Richmond Hill House, provided a like amount of five thousand dollars ($5,000) is raised by the Preservation Society of Asheville and Buncombe County to match the grant-in-aid on a dollar-for-dollar basis. Application may be made to the division from time to time, for the funds appropriated under this act as the matching funds are raised.

Sec. 2. Funds appropriated in this act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 3. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 10th day of October, 1981.
H. B. 651  CHAPTER 1081
AN ACT TO APPROPRIATE FUNDS FOR A SURVEY OF HISTORICALLY
AND ARCHITECTURALLY SIGNIFICANT STRUCTURES IN THE
CITY OF BURLINGTON IN ALAMANCE COUNTY.

Whereas, the City of Burlington in Alamance County was founded about
1851 when the North Carolina Railroad established its repair shops at the site,
and was first known as Company Shops until renamed Burlington in 1887; and

Whereas, the City of Burlington prospered as a center of transportation,
commerce, and industry and now possesses a wide variety of historic residential,
commercial, industrial, and public structures that reflect the economic and
cultural growth of North Carolina through the second half of the nineteenth
century and the early twentieth century; and

Whereas, the citizens of Burlington desire to identify, record, and
document these structures for the purposes of planning for their continued
preservation, use, enjoyment, and appreciation by the citizens of Burlington,
Alamance County, and North Carolina; and

Whereas, the Historic Properties Commission of Alamance County and
the Historic District Commission of Burlington have previously conducted and
published a survey of historic properties elsewhere in Alamance County and
desire to complete the county survey with the study of historic properties in
Burlington; and

Whereas, funds are needed to conduct the survey: Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the
Division of Archives and History, Department of Cultural Resources, for the
1981-82 fiscal year the sum of ten thousand dollars ($10,000) for the purposes of
conducting the survey of historically and architecturally significant structures
in the City of Burlington and publishing the survey results, including
compensation for the research services of a qualified principal investigator,
necessary travel, photography, supplies, and printing, provided that a like
amount of ten thousand dollars ($10,000) is raised by the Historic Properties
Commission of Alamance County and the Historic Districts Commission of
Burlington, in order to match the grant-in-aid on a dollar-for-dollar basis.

Sec. 2. The survey shall be performed to the standards and guidelines
for survey projects established by the Archaeology and Historic Preservation
Section of the Division of Archives and History, Department of Cultural
Resources, and shall be conducted under the professional supervision of that
agency.

Sec. 3. Funds appropriated in this act shall be expended only in
accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of
October, 1981.
AN ACT TO APPROPRIATE FUNDS TO PRESERVE AND RESTORE THE GOVERNOR DAVID S. REID HOUSE IN REIDSVILLE, ROCKINGHAM COUNTY.

Whereas, the David S. Reid House in Reidsville was built in 1881 and served as Governor Reid’s residence during the last 10 years of his life; and

Whereas, Governor Reid’s political career spanned a period of four decades during which time he served as a State Senator, United States Congressman, Governor of North Carolina, and United States Senator; and

Whereas, Governor Reid owned furniture that was crafted by North Carolina freedman Thomas Day and is now on temporary loan to the North Carolina Museum of History awaiting restoration of the Governor Reid House; and

Whereas, the Reidsville Historic Properties Commission has purchased the Governor Reid House and intends to restore it and use it as a museum, community center, and offices for the benefit of the local citizenry and all North Carolinians; and

Whereas, the David S. Reid House has been entered in the National Register of Historic Places by the United States Department of the Interior; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for the 1981-82 fiscal year twenty thousand dollars ($20,000) for the purpose of restoring the exterior and interior of the Governor David S. Reid House in Reidsville, provided that like sums are raised by the Reidsville Historic Properties Commission to match the grant-in-aid on a dollar-for-dollar basis.

Sec. 2. Funds appropriated in this act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

AN ACT TO APPROPRIATE FUNDS FOR THE OLD CASWELL COUNTY COURTHOUSE IN YANCEYVILLE.

Whereas, the Old Caswell County Courthouse was constructed between 1858 and 1861 in accordance with an eclectic Victorian design by Architect William Percival; and

Whereas, the building is architecturally one of the most distinctive courthouse structures in North Carolina and was nominated to the National Register of Historic Places in 1973 because of this architectural significance; and

Whereas, State Senator John W. Stephens was murdered in the courthouse on May 21, 1870, contributing to the development of the so-called Kirk-Holden War and the subsequent impeachment of Governor William W. Holden; and
CHAPTER 1083  Session Laws—1981

Whereas, restoration of the courthouse has been underway for several years using local and federal funds; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, the sum of ten thousand dollars ($10,000) for fiscal year 1981-82 for further restoration of the Old Caswell County Courthouse provided that a like amount is raised by the Board of Commissioners of Caswell County to match the grant-in-aid on a dollar-for-dollar basis. The board may apply to the division, from time to time, for the funds appropriated under this act, as it raises the matching funds. Any appropriated money not used or not matched shall revert to the General Fund.

Sec. 2. It is the intent of the North Carolina General Assembly that this total of ten thousand dollars ($10,000) in the 1981-82 fiscal year shall be the final appropriation for the rehabilitation program for the Old Caswell County Courthouse.

Sec. 3. Funds appropriated in this act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 672  CHAPTER 1084

AN ACT TO APPROPRIATE FUNDS TO ASSIST IN THE CONTINUED RESTORATION OF PERSON'S ORDINARY IN WARREN COUNTY.

Whereas, Person's Ordinary in Littleton was long owned and operated by Thomas Person, Regulator, officer of the Continental Line, prominent State legislator, and member of the original Board of Trustees of The University of North Carolina; and

Whereas, it was subsequently owned and operated by William P. Little, delegate to the constitutional convention of 1788, State legislator, and member of the Council of State; and

Whereas, the historic building is one of the last surviving inns in North Carolina constructed prior to the American Revolution, and should be preserved as an example of the numerous wayside inns which once provided travelers with lodging and hospitality; and

Whereas, Person's Ordinary was placed on the National Register of Historic Places in 1973; and

Whereas, Person's Ordinary is owned, operated, maintained, and kept open to the public by the Littleton Women's Club, a nonprofit organization; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, the sum of twelve thousand dollars ($12,000) for fiscal year 1981-82 for further restoration of the roof and other exterior portions of Person's Ordinary, provided that a like amount is raised by the Littleton Women's Club to match the grant-in-aid on a dollar-for-dollar basis. The club may apply to the division, from time to time,
for the funds appropriated under this act, as it raises the matching funds. Any appropriated money not used or not matched shall revert to the General Fund.

Sec. 2. It is the intent of the North Carolina General Assembly that this total of twelve thousand dollars ($12,000) in the 1981-83 biennium shall be the final appropriation for the rehabilitation program for the Person’s Ordinary.

Sec. 3. Funds appropriated in this act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 703 CHAPTER 1085
AN ACT TO APPROPRIATE FUNDS TO THE TOWN OF WARRENTON, WARREN COUNTY, TO AID IN REPAIR OF A WATER STORAGE TANK.

Whereas, the Town of Warrenton was faced with an emergency this winter that required immediate repair of the town’s water storage tank; and

Whereas, the cost of those repairs was considerably higher than had been anticipated; and

Whereas, the town has had to borrow money from various town departments to be able to pay for the repairs; and

Whereas, the departments from which the money was borrowed need their funds restored if they are to continue to function; and

Whereas, the sum of money needed is not great but is beyond the present means of the Town of Warrenton; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Town of Warrenton, Warren County, the sum of twenty thousand dollars ($20,000) for fiscal year 1981-82 to aid in paying the costs of repairing the town water storage tank and restoring funds borrowed from town departments to pay for those repairs.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 724 CHAPTER 1086
AN ACT TO APPROPRIATE FUNDS FOR CONSTRUCTION OF A BOAT RAMP IN BRUNSWICK COUNTY.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Motorboat Fund of the North Carolina Wildlife Resources Commission the sum of twelve thousand dollars ($12,000) for fiscal year 1981-82 for the development and construction of a boating and fishing access area in Brunswick County.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

1595
AN ACT TO PROVIDE FUNDS TO INCREASE THE FOSTER CARE BOARD RATE.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Division of Social Services, Department of Human Resources, the sum of two hundred forty-seven thousand, seven hundred twelve dollars ($247,712) for fiscal year 1981-82 to increase the foster care board rate to one hundred fifty dollars ($150.00) per month per child in foster care for the period January 1, 1982 through June 30, 1982.

Sec. 2. This act shall become effective January 1, 1982.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

AN ACT TO APPROPRIATE MATCHING FUNDS TO ASSIST IN THE REHABILITATION OF THE CAROLINA THEATER IN ROBESON COUNTY.

Whereas, the Carolina Theater was the principal theater house for Lumberton from 1928 until the 1970’s, embodies the distinctive characteristics of classically designed theaters of the 1920’s containing many original architectural elements, and has been nominated to the National Register of Historic Places; and

Whereas, the Carolina Civic Center Foundation, Inc., a nonprofit corporation, has leased the Carolina Theater from the City of Lumberton for one dollar ($1.00) per year for 20 years, is responsible for its operation and rehabilitation into a community theater, convention center and art gallery, and has demonstrated public support for the Carolina Theater by raising sixty-five thousand dollars ($65,000) from local private donations and fund raisings; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, the sum of fifty thousand dollars ($50,000) for fiscal year 1981-82 to provide matching funds for rehabilitation of the Carolina Theater, in Lumberton, Robeson County.

Sec. 2. Funds appropriated in this act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.
H. B. 745  

CHAPTER 1089

AN ACT TO PROVIDE FUNDS FOR EXPANSION OF THE OXFORD TOBACCO RESEARCH STATION.

Whereas, it is essential that Oxford Tobacco Research Station expand in an orderly and effective way in order to research ways both to adopt tobacco processing to current industry conditions and to assist North Carolina tobacco farmers and the tobacco industry to meet individual and governmental criticism concerning tobacco use and consumption; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Agriculture the sum of two hundred thousand dollars ($200,000) for fiscal year 1981-82 for land acquisition, an irrigation system and improved drainage at the Oxford Tobacco Research Station.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 747  

CHAPTER 1090

AN ACT TO CREATE A LEGISLATIVE COMMISSION TO STUDY THE WATER POLLUTION PROBLEMS AND WATER RESOURCES NEEDS OF THE CHOWAN RIVER BASIN AND THE ALBEMARLE SOUND BASIN.

The General Assembly of North Carolina enacts:

Section 1. Creation of Commission; Membership; Chairmen. There is created the Legislative Commission to study the water pollution problems and water resources needs of the Chowan River Basin and Albemarle Sound Basin. The commission shall consist of eight members appointed as follows:

(1) two members of the Senate appointed by the Lieutenant Governor, one of whom shall be designated a cochairman of the commission;

(2) two nonlegislative members appointed by the Lieutenant Governor, both of whom shall be residents of the Chowan River or Albemarle Sound Basin areas;

(3) two members of the House of Representatives appointed by the Speaker of the House of Representatives, one of whom shall be designated a cochairman of the commission;

(4) two nonlegislative members appointed by the Speaker of the House of Representatives, both of whom shall be residents of the Chowan River or Albemarle Sound Basin areas.

Sec. 2. Duties of the Commission. The commission shall conduct an extensive study of water pollution problems and water resources needs in the Chowan River and Albemarle Sound Basins. The commission shall report its findings to the 1983 General Assembly by January 1, 1983. The report may include any proposed legislation, programs or interstate agreements necessary to effectuate the findings of the commission. The report shall include an evaluation of the Chowan River restoration efforts undertaken by the Department of Natural Resources and Community Development.

Sec. 3. Staff. The Legislative Services Officer shall provide professional assistance and secretarial support to the commission.
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Sec. 4. Duties of the Department. The Department of Natural Resources and Community Development shall be responsible for conducting the Chowan River Restoration efforts and initiating studies which could lead to an Albemarle Basin Restoration Project. During fiscal years 1981-82 and 1982-83 the Department shall: develop a plan for an Albemarle Sound Restoration Project; submit annual reports to the Governor and the General Assembly; conduct a program of investigations which shall lead to recommendations for appropriate restoration strategies; implement the restoration strategies through appropriate State and federal laws; develop the appropriate financial, technical and institutional cooperation with local governments and Virginia; develop an index or indicator for the success of the restoration efforts and report on it periodically; operate a local office in the Albemarle Sound area to respond to citizen inquiries; augment State funds with the local and federal funds that can be made available to assist in the project; and assign a full-time project manager to the activities described in this act.

Sec. 5. Travel and Subsistence Allowances. Members of the commission who are members of the General Assembly shall receive subsistence and travel allowances at the rate set forth in G.S. 120-3.1. Members of the commission who are not officials or employees of the State of North Carolina and who are not members of the General Assembly shall receive per diem compensation and travel expenses at the rate set forth in G.S. 138-5. Any members of the commission who are officials or employees of the State of North Carolina shall receive travel allowances at the rate set forth in G.S. 138-6.

Sec. 6. Appropriations to the Commission. There is appropriated to the General Assembly from the General Fund the sum of five thousand dollars ($5,000) for the 1981-82 fiscal year for the operation of the Legislative Commission to study the water pollution problems and water resources needs of the Chowan River and Albemarle Sound Basins and to evaluate the Chowan River Restoration efforts of the Department of Natural Resources and Community Development.

Sec. 7. Appropriations to the Department of Natural Resources and Community Development. For the purposes of this act, there is appropriated from the General Fund to the Department of Natural Resources and Community Development the sum of ninety-five thousand dollars ($95,000) for the 1981-82 fiscal year.

Sec. 8. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 1426         CHAPTER 1091

AN ACT TO ALLOW THE EXPENDITURE OF SURPLUS SOIL AND WATER CONSERVATION GRANT FUNDS FOR THE COUNTRY LINE CREEK WATERSHED PROJECT TO BE USED TO CONSTRUCT A BRIDGE ON SR 1131 ACROSS THE PROJECT.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of Article 4 of Chapter 139 of the General Statutes or any other law, surplus funds allocated to the Country Line Creek Watershed Project may be used by Caswell County for the construction of a replacement bridge on SR 1131 across the watershed project.
Session Laws—1981  CHAPTER 1093

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 755  CHAPTER 1092

AN ACT TO APPROPRIATE FUNDS FOR THE INSTALLATION OF EXHIBITS TO THE GRANVILLE COUNTY MUSEUM COMMISSION, INC.

Whereas, the Granville County Museum was chartered in 1975 by virtue of the laws of North Carolina; and

Whereas, the purpose of the Granville County Museum is to collect, preserve, and utilize historically significant artifacts and to develop interpretive museum programs for the promotion and teaching of Granville County history; and

Whereas, the amount of twenty-five thousand dollars ($25,000) was appropriated over the years by the North Carolina General Assembly for the development of the museum; and

Whereas, the museum, located in one of the oldest buildings in Granville County, is the only museum in the area stressing local history; and

Whereas, to effectively teach the history of Granville County and North Carolina through the use of exhibits containing original artifacts, additional exhibits cases are needed to protect those artifacts; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Cultural Resources the sum of one thousand dollars ($1,000) for fiscal year 1981-82 to develop interpretive exhibits in the Granville County Museum, provided a like amount of one thousand dollars ($1,000) is raised by the Granville County Museum Commission, Inc., to match the grant-in-aid on a dollar for dollar basis.

Sec. 2. Funds appropriated in this act shall be expended in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 3. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 776  CHAPTER 1093

AN ACT TO APPROPRIATE FUNDS TO CHEROKEE COUNTY FOR IMPROVEMENTS TO THE SOUTHWESTERN NORTH CAROLINA LIVESTOCK-PRODUCE MARKET AND MOUNTAIN FOLK CENTER.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated to the Department of Agriculture for Cherokee County, North Carolina, out of the General Fund of the State of North Carolina the sum of ten thousand dollars ($10,000) for the fiscal year 1981-82. The funds hereby appropriated shall be used for the purpose of expanding the cooling area and converting the boiler in the community cannery to propane gas at the Southwestern North Carolina Livestock-Produce Market and Mountain Folk Center.

Sec. 2. This act is effective upon ratification.
CHAPTER 1093  Session Laws—1981

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 795  CHAPTER 1094
AN ACT TO APPROPRIATE FUNDS FOR A GRANT-IN-AID TO MILL PRONG PRESERVATION, INC., IN HOKE COUNTY.

Whereas, Mill Prong Preservation, Inc., is a nonprofit corporation responsible for the restoration and adaptive reuse of the Mill Prong house; and

Whereas, the historic house was built between 1794 and 1802 by John Gilchrist, Sr., a Highland Scot who immigrated to the area in 1770 as part of the large influx of his fellow countrymen into the upper Cape Fear region; and

Whereas, both John Gilchrist, Sr., and his son, John Gilchrist, Jr., were men of considerable prominence who served in the State Legislature; and

Whereas, the house was later owned and occupied by Archibald McEachern, who enlarged and remodeled the structure in the 1830’s; and

Whereas, Mill Prong was long an integral part of the large community of Highland Scots in the upper Cape Fear region and, as such, represents the many contributions made to North Carolina by citizens of Highland Scot descent; and

Whereas, Mill Prong has been entered in the National Register of Historic Places by the United States Department of the Interior; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for the 1981-82 fiscal year the sum of eleven thousand dollars ($11,000) for the purpose of exterior repairs to the Mill Prong house, provided a like amount is raised by Mill Prong Preservation Inc., to match the grant-in-aid on a dollar-for-dollar basis. Mill Prong Preservation, Inc., may apply to the Division from time to time for the funds appropriated under this act, as it raises the matching funds. Any appropriated money not used or not matched shall revert to the General Fund.

Sec. 2. It is the intent of the North Carolina General Assembly that this total of eleven thousand dollars ($11,000) for the 1981-82 fiscal year shall be the final appropriation for the purpose of exterior repairs to the Mill Prong House.

Sec. 3. Funds appropriated in this act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.
CHAPTER 1095
AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF CULTURAL RESOURCES FOR ARTS PROGRAMS AND COMMUNITY ARTS DEVELOPMENT.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Cultural Resources the sum of two hundred fifty-six thousand two hundred fifty dollars ($256,250) for fiscal year 1981-82 for the Grass Roots Arts Program. These funds are to be distributed to counties only on a per capita basis for use by local arts programs.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

CHAPTER 1096
AN ACT TO MAKE AN APPROPRIATION FOR THE DISPUTE SETTLEMENT CENTER.

Whereas, the Dispute Settlement Center, Inc., in Orange County was begun in 1978 as a means of providing an effective forum for mediation of disputes by means of reaching mutual agreement; and

Whereas, dispute settlement has a great potential for reducing the volume of minor civil and potential criminal matters facing our court system; and

Whereas, the winner-take-all system of adjudication is often unjust, and binding arbitration unacceptable; and

Whereas, in the third quarter of 1980 alone, 70 cases were referred to the dispute settlement center, 46 of which were mediated and 40 of those resolved; and

Whereas, a State appropriation will enable this pilot program to be continued as a model for the entire State; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the District Attorney of Prosecutorial District 15-B for fiscal year 1981-82 the sum of twenty-four thousand dollars ($24,000) for operating expenses of the Dispute Settlement Center, Inc.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.
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H. B. 849  CHAPTER 1097
AN ACT TO PROVIDE FUNDS FOR THE ASHE COUNTY ADULT DEVELOPMENTAL ACTIVITY PROGRAM.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Division of Mental Health, Mental Retardation and Substance Abuse Services, Department of Human Resources, the sum of forty-one thousand forty dollars ($41,040) for fiscal year 1981-82 for the Ashe County Adult Developmental Activity Program, to provide 20 Adult Developmental Activity Program (ADAP) slots at one hundred seventy-one dollars ($171.00) per month per slot. This appropriation is for the 1981-82 fiscal year only and shall not become a part of the Department of Human Resources continuation budget.

Sec. 2. This act shall not obligate the General Assembly to provide further appropriations.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 850  CHAPTER 1098
AN ACT TO PROVIDE FUNDS FOR AN ELIZABETH CITY SHELTERED WORKSHOP.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Division of Vocational Rehabilitation Services, Department of Human Resources, the sum of thirty-seven thousand five hundred dollars ($37,500) for fiscal year 1981-82 for Skills Inc., of Elizabeth City, to provide a sheltered workshop in Elizabeth City.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 865  CHAPTER 1099
AN ACT TO APPROPRIATE FUNDS FOR THE OPERATION OF THE MOREHEAD PLANETARIUM.

Whereas, the Morehead Planetarium on the Chapel Hill campus of The University of North Carolina at Chapel Hill is a major cultural, educational, and scientific facility of the State, and is one of the finest planetariums in the world; and

Whereas, the Morehead Planetarium has served more than three million visitors since it opened in 1949, including more than 81,000 in 1979-80 alone; and

Whereas, the Morehead Planetarium in the past has been nearly self-sustaining through admission receipts; and

Whereas, legislatively voted salary increases have forced numerous increases in ticket prices and service reductions; and

Whereas, any further increases in ticket prices would restrict its mission of education, and further service cutbacks would sacrifice the quality of the program; Now, therefore,
Session Laws—1981  CHAPTER 1100

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Board of Governors of The University of North Carolina the sum of thirty-five thousand dollars ($35,000) for fiscal year 1981-82, to fund operation of the Morehead Planetarium in Chapel Hill.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 878  CHAPTER 1100

AN ACT TO REWRITE AND RELOCATE G.S. 14-139 RELATING TO SETTING FIRES IN CERTAIN AREAS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-139 is repealed.

Sec. 2. Chapter 113 of the General Statutes is amended by adding a new Article 4C thereto as follows:

“ARTICLE 4C.

“Regulation of Open Fires.

§ 113-60.20. Purpose and findings.—The purpose of this Article is to regulate certain open burning in order to protect the public from the hazards of forest fires and air pollution and to adapt such regulation to the needs and circumstances of the different areas of North Carolina. The General Assembly finds that open burning in proximity to woodlands must be regulated in all counties to protect against forest fires and air pollution. The General Assembly further finds that certain counties contain organic soils or forest types which pose greater problems of forest fire and air pollution control and which require additional regulation of open burning, particularly open burning associated with land clearing operations. The counties subject to the need for additional control are classified as high hazard counties for purpose of this Article.

§ 113-60.21. Definition.—As used in this Article:

(1) ‘Forest ranger’ means the county forest ranger or deputy forest ranger designated under G.S. 113-52.

(2) ‘Department’ means the Department of Natural Resources and Community Development.

(3) ‘Person’ means any individual, firm, partnership, corporation, association, public or private institution, political subdivision, or government agency.

(4) ‘Woodland’ means woodland as defined in G.S. 113-57.

§ 113-60.22. High hazard counties; permits required; standards.—(a) The provisions of this section apply only to the counties of Beaufort, Bladen, Brunswick, Camden, Carteret, Chowan, Columbus, Craven, Currituck, Dare, Duplin, Gates, Hyde, Jones, Martin, Onslow, Pamlico, Pasquotank, Pender, Perquimans, Tyrrell, and Washington which are classified as high hazard counties in accordance with G.S. 113-60.20.

(b) It is unlawful for any person to willfully start or cause to be started any fire in any woodland under the protection of the department or within 500 feet of any such woodland without first having obtained a permit from the department. Permits for starting fires may be obtained from forest rangers or other agents authorized by the county forest ranger to issue such permits in the county in which the fire is to be started. Such permits shall be issued by the
ranger or other agent unless permits for the area in question have been prohibited or cancelled in accordance with G.S. 113-60.24 or G.S. 113-60.26.

(c) It is unlawful for any person to willfully burn any debris, stumps, brush or other flammable materials resulting from ground clearing activities and involving more than five contiguous acres, regardless of the proximity of the burning to woodland and on which such materials are placed in piles or windrows without first having obtained a special permit from the Department. Areas less than five acres in size will require a regular permit in accordance with G.S. 113-60.22(b).

1) Prevailing winds at the time of ignition must be away from any city, town, development, major highway, or other populated area, the ambient air of which may be significantly affected by smoke, fly ash, or other air contaminates from the burning.

2) The location of the burning must be at least 1,000 feet from any dwelling or structure located in a predominately residential area other than a dwelling or structure located on the property on which the burning is conducted unless permission is granted by the occupants.

3) The amount of dirt or organic soil on or in the material to be burned must be minimized and the material arranged in a way suitable to facilitate rapid burning.

4) Burning may not be initiated when it is determined by a forest ranger, based on information supplied by a competent authority that stagnant air conditions or inversions exist or that such conditions may occur during the duration of the burn.

5) Heavy oils, asphaltic material, or items containing natural or synthetic rubber may not be used to ignite the material to be burned or to promote the burning of such material.

6) Initial burning may be commenced only between the hours of 9:00 a.m. and 3:00 p.m. and no combustible material may be added to the fire between 3:00 p.m. on one day and 9:00 a.m. on the following day, except that when favorable meteorological conditions exist, any forest ranger authorized to issue the permit may authorize in writing a deviation from the restrictions.

§ 113-60.23. Open burning in non-high hazard counties; permits required; standards.—(a) The provisions of this section apply only to the counties not designated as high hazard counties in G.S. 113-60.22(a).

(b) It shall be unlawful for any person to start or cause to be started any fire or ignite any material in any woodland under the protection of the department or within 500 feet of any such woodland during the hours starting at midnight and ending at 4:00 p.m. without first obtaining a permit from the department. Permits may be obtained from forest rangers or other agents authorized by the forest ranger to issue such permits in the county in which the fire is to be started. Such permits shall be issued by the ranger or other agent unless permits for the area in question have been prohibited or cancelled under G.S. 113-60.24 or G.S. 113-60.26.

§ 113-60.24. Open burning prohibited statewide.—During periods of hazardous forest fire conditions or during air pollution episodes declared pursuant to Article 21B of Chapter 143 of the General Statutes, the secretary is authorized to prohibit all open burning regardless of whether a permit is required under G.S. 113-60.22 or G.S. 113-60.23. The secretary shall issue a
press release containing relevant details of the prohibition to news media serving the area affected.

"§ 113-60.25. Permit conditions.—Permits issued under this Article shall be issued in the name of the person undertaking the burning and shall specify the specific area in which the burning is to occur, the type and amount of material to be burned, the duration of the permit, and such other factors as are necessary to identify the burning which is allowed under the permit.

"§ 113-60.26. Permit suspension and cancellation.—Upon a determination that hazardous forest fire conditions exist the secretary is authorized to cancel any permit issued under this Article and suspend the issuance of any new permits. Upon a determination by the Environmental Management Commission or its agent that open burning permitted under this Article is causing significant contravention of ambient air quality standards or that an air pollution episode exists pursuant to Article 21B of Chapter 143 of the General Statutes, the secretary shall cancel any permits issued under authority of this Article and shall suspend the issuance of any new permits.

"§ 113-60.27. Control of existing fires.—(a) If a fire is set without a permit required by G.S. 113-60.22, 113-60.23 or 113-60.24 and is set in an area in which permits are prohibited or cancelled at the time the fire is set, the person responsible for setting the fire or causing the fire to be set shall immediately extinguish the fire or take such other action as directed by any forest ranger authorized to issue permits under G.S. 113-60.22(c). In the event that the person responsible does not immediately undertake efforts to extinguish the fire or take such other action as directed by the forest ranger, the department may enter the property and take reasonable steps to extinguish or control the fire and the person responsible for setting the fire shall reimburse the department for the expenses incurred by the department. A showing that a fire is associated with land-clearing activities is prima facie evidence that the person undertaking the land clearing is responsible for setting the fire or causing the fire to be set.

(b) If a fire requiring a permit under G.S. 113-60.22(c) is set without a permit and a forest ranger authorized to issue such permits determines that a permit would not have been issued for the fire at the time it was set, the person responsible for setting the fire or causing the fire to be set shall immediately take such action as the forest ranger directs to extinguish or control the fire. In the event the person responsible does not immediately undertake efforts to extinguish the fire or take such other action as directed by the forest ranger, the department may enter the property and take reasonable steps to extinguish or control the fire and the person responsible for setting the fire shall reimburse the department for the expenses incurred by the department. A showing that a fire is associated with land-clearing activities is prima facie evidence that the person undertaking the land clearing is responsible for setting the fire or causing the fire to be set.

(c) If a fire is set in accordance with a permit but the burning is taking place contrary to the conditions of the permit, any forest ranger with authority to issue permits in the area in question may order the permittee in writing to undertake the steps necessary to comply with the conditions of his permit. If the permittee is not making a reasonable effort to comply with the order, the forest ranger may enter the property and take reasonable steps to extinguish or control the fire and the permittee shall reimburse the department for the expenses incurred by the department.
"§ 113-60.28. Penalties.—Any person violating the provisions of this Article or of any permit issued under the authority of this Article shall be guilty of a misdemeanor and upon conviction shall be fined not more than fifty dollars ($50.00) or imprisoned for a period of not more than 30 days, or both, in the discretion of the court. The penalties imposed by this section shall be separate and apart and not in lieu of any civil or criminal penalties which may be imposed by G.S. 143-215.114 of Article 21B of Chapter 143 of the General Statutes. The penalties imposed are also in addition to any liability the violator incurs as a result of actions taken by the department under G.S. 113-60.27.

"§ 113-60.29. Effect on other laws.—This Article shall not be construed as affecting or abridging the lawful authority of local governments to pass ordinances relating to open burning within their boundaries. Nothing in this Article shall relieve any person from compliance with the provisions of Article 21B of Chapter 143 of the General Statutes and regulations adopted thereunder. In the event that permits are required for open burning associated with land clearing under the authority of Article 21B of Chapter 143 of the General Statutes, the authority to issue such permits shall be delegated to forest rangers who are authorized to issue permits under G.S. 113-60.22(c).

"§ 113-60.30. Exempt fires; no permit fees.—(a) This Article shall not apply to any fires started, or caused to be started, within 100 feet of an occupied dwelling house if such fire shall be confined (i) within an enclosure from which burning material may not escape or (ii) within a protected area upon which a watch is being maintained and which is provided with adequate fire protection equipment.

(b) No charge shall be made for the granting of any permit required by this Article."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 900

CHAPTER 1101

AN ACT TO PROVIDE FUNDS FOR PRENATAL CARE FOR ELIGIBLE PREGNANT WOMEN.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Division of Medical Assistance, Department of Human Resources, the sum of six hundred thousand dollars ($600,000) for fiscal year 1981-82 to provide funds for Medicaid coverage under the medically needy program for pregnant women who would be eligible for medical assistance as categorically needy except for income and resources and who meet federal requirements for medicaid eligibility and have no other children. From the effective date of this act, the State will, upon a determination of pregnancy, cover the health care costs, including prenatal and delivery costs, for women eligible under this act.

Sec. 2. This act shall become effective March 1, 1982.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.
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H. B. 916  CHAPTER 1102
AN ACT APPROPRIATING FUNDS TO THE DEPARTMENT OF AGRICULTURE FOR TWO SEED ANALYSTS.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Agriculture the sum of twenty thousand dollars ($20,000) for the 1981-82 fiscal year to provide two seed analysts for the Seed Testing Laboratory.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 919  CHAPTER 1103
AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF CULTURAL RESOURCES FOR THE OUTDOOR DRAMA UNTO THESE HILLS.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Theatre Arts Division, Department of Cultural Resources, the sum of fifty thousand dollars ($50,000) for the 1981-82 fiscal year for capital improvements for the outdoor drama, Unto These Hills.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 935  CHAPTER 1104
AN ACT TO APPROPRIATE FUNDS FOR SWANSBORO’S 200TH ANNIVERSARY CELEBRATION.

Whereas, the Town of Swansboro was erected, incorporated, and named by an act of the General Assembly ratified on 6 May 1783; and

Whereas, the Town of Swansboro is the oldest continuously existing town in Onslow County and was historically the cultural and economic center of the county for a century following the town’s establishment; and

Whereas, the town flourished as a port for many years, first as part of the Port Beaufort customs district and, after 1786, as Port Swannsborough; and

Whereas, the citizens of Swansboro have exhibited unquestionable patriotism in all the American wars from the Revolution to modern times, the town being the home of North Carolina’s most famous hero of the War of 1812, Captain Otway Burns; and

Whereas, the town was named for one of North Carolina’s most famous Colonial leaders, Samuel Swann, editor of Swann’s Revisal and Speaker of the North Carolina House of Commons and Onslow’s representative from 1738 to 1762; and

Whereas, the town has a deep-seated appreciation for its history and heritage, contains many historically and architecturally important structures, and actively seeks to preserve manuscripts, iconographic records and folk customs of the town; and

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Whereas, the Swansboro Town Board on 3 April 1980 appointed an official standing committee to plan and conduct the town's 200th anniversary celebration, to consist of numerous individual events spaced throughout the year 1983; and

Whereas, the contemplated celebration will have great educational, historical, and patriotic value for the people of the town, county, and State; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for the fiscal year 1981-82 the sum of twenty thousand dollars ($20,000), which shall be available to Swansboro's 200th Anniversary Celebration Committee for the purpose of planning and conducting an appropriate bicentennial celebration for the Town of Swansboro, including operating expenses, publications, research, exhibits, musical and dramatic events, acquisition of a fitting monument to Captain Otway Burns, a historical seminar, and other commemorative events.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 932    CHAPTER 1105

AN ACT TO APPROPRIATE FUNDS FOR REHABILITATION OF THE JAMES A. CAMPBELL HOUSE, BUIES CREEK.

Whereas, the James A. Campbell House was constructed in 1891 and served as the residence of the founder of Campbell College until his death in 1934; and

Whereas, within the home, Carlyle and Leslie Campbell, presidents of Meredith and Campbell Colleges, respectively, were reared; and

Whereas, the home served as the social and religious center for students, faculty and visitors—Josephus Daniels, D. Rich, Fred Day and many other notables; and

Whereas, the home is listed in the National Register of Historic Places; and

Whereas, the trustees of Campbell College have presented to the Harnett County Historical Society Foundation, Inc., the house and 1.33 acres for preservation and use as a community meeting place and facility; and

Whereas, the Harnett County Historical Society has completed the exterior rehabilitation of the home and has planned for the interior rehabilitation; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Cultural Resources, for the 1981-82 fiscal year the sum of twenty-five thousand dollars ($25,000), which will be available to the Harnett County Historical Society Foundation, Inc., for the rehabilitation of the James A. Campbell House, provided a like amount is raised by the Harnett County Historical Society Foundation, Inc. Funds appropriated in this act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 2. This act shall become effective upon ratification.
In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 1072  CHAPTER 1106
AN ACT TO PROVIDE OVERTIME COMPENSATION FOR STATE FORESTRY EMPLOYEES INVOLVED IN FIGHTING FOREST FIRES.

Whereas, the professional employees of the Forest Resources Division of the North Carolina Department of Natural Resources and Community Development devote hundreds of overtime hours each year without adequate compensation in fighting forest fires throughout the State; and
Whereas, professional employees of other State agencies and institutions receive overtime compensation; and
Whereas, the North Carolina General Assembly has determined that the State's forests and woodlands must be adequately protected from the ravages of fire; Now, therefore,
The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Natural Resources and Community Development the sum of sixty-six thousand dollars ($66,000) for the 1981-82 fiscal year for the purpose of providing overtime compensation to the professional employees of the Forest Resources Division involved in fighting forest fires.

Sec. 2. In the event that any of the funds appropriated in this act are not required to fully compensate such employees for overtime, any remaining balance shall revert to the General Fund at the end of the 1981-82 fiscal year and shall not be transferred nor expended for any purpose other than the one specified in this act. This act shall not obligate the General Assembly to provide any additional funds at any time.

Sec. 3. This act shall become effective upon ratification.
In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 959  CHAPTER 1107
AN ACT TO AUTHORIZE THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE ORGANIZATION OF A DEPARTMENT OF NATURAL RESOURCES, INCLUDING STATE PROGRAMS ON ENVIRONMENTAL HEALTH, NATURAL RESOURCES MANAGEMENT, AND ENVIRONMENTAL PROTECTION.

The General Assembly of North Carolina enacts:

Section 1. The Legislative Research Commission is authorized to study the organization of State government programs and activities in North Carolina concerning environmental health, natural resources management, and environmental protection and the coordination and possible consolidation of these programs within one department of State government.

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 10th day of October, 1981.
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H. B. 982  CHAPTER 1108

AN ACT TO APPROPRIATE FUNDS FOR THE PRESERVATION AND RESTORATION OF THE RICHMOND HILL LAW SCHOOL IN YADKIN COUNTY.

Whereas, Richmond Mumford Pearson was one of the great legal minds produced in North Carolina, occupying such positions as Superior Court Judge from 1837 to 1848, Justice of the North Carolina Supreme Court from 1848 to 1858, and as Chief Justice from 1858 to 1878; and

Whereas, Judge Pearson established in 1847-48 a law school at his home above the Yadkin River, called Richmond Hill; and

Whereas, from 1848 to 1876 Justice Pearson conducted at Richmond Hill one of the State's best known private law schools of the day, educating there three Governors, six Supreme Court Justices, more than a dozen Superior Court Judges, three Congressmen of the United States, one Confederate Congressman, numerous State Legislators, and various Ambassadors, Cabinet Officers, and other luminaries; and

Whereas, Judge Pearson's ca. 1860 home at Richmond Hill has been placed in the charge of the Historic Richmond Hill Law School Commission, which with local, foundation, State and federal funds has stabilized and restored the exterior of this structure and begun restoration of its interior; and

Whereas, federal funds have been used to develop the surrounding 24 acres as an historic nature park maintained by Yadkin County; and

Whereas, the Law School Commission needs additional funds to complete the interior restoration of the house; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for the 1981-82 fiscal year the sum of seven thousand five hundred dollars ($7,500) for the continuation of the interior restoration of Judge Pearson's home at Richmond Hill, provided a like sum is raised by the Historic Richmond Hill Law School Commission to match the grant-in-aid on a dollar-for-dollar basis. The Commission may apply to the Division, from time to time, for the funds appropriated under this act, as it raises the matching funds. Any appropriated money not used or not matched shall revert to the General Fund.

Sec. 2. Funds appropriated in this act shall be expended in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.
H. B. 992

CHAPTER 1109

AN ACT TO PROVIDE LIABILITY INSURANCE COVERAGE FOR THE LAW ENFORCEMENT OFFICERS AND LAW ENFORCEMENT SUPPORT PERSONNEL EMPLOYED BY THE STATE.

The General Assembly of North Carolina enacts:

Section 1. There is established a General Fund Reserve for State Law Enforcement Professional Liability Insurance in the amount of one hundred thirty thousand eight hundred thirty dollars ($130,830) for fiscal year 1981-82. There is established a Highway Fund Reserve for State Law Enforcement Professional Liability Insurance in the amount of thirty-seven thousand one hundred twenty dollars ($37,120) for fiscal year 1981-82. The director of the budget is directed to transfer to the head of a department from the General Fund Reserve for State Law Enforcement Professional Liability Insurance and from the Highway Fund Reserve for State Law Enforcement Professional Liability Insurance as applicable sufficient funds to enable the requesting department to acquire professional liability insurance covering the law enforcement officers and employees thereof as provided in G.S. 143B-424.1.

Sec. 2. G.S. 143-300.6(c) is amended by changing the period at the end of that section to a comma and adding the following:

"except that this subsection shall not apply to programs of insurance written under the authority of G.S. 143B-424.1; and programs of insurance written under G.S. 143B-424.1 shall not be deemed to be commercial liability insurance within the meaning of this section."

Sec. 3. Part 20 of Article 9 of General Statutes Chapter 143B is amended by adding a new section to read:

"§ 143B-424.1. Professional liability insurance for State officials.—(a) The Commission may acquire professional liability insurance covering the officers and employees, or any group thereof, of any State department, institution or agency. Premiums for such insurance shall be paid by the requesting department, institution or agency, at rates established by the Commission, from funds made available to such department, institution or agency for the purpose.

(b) The Commission, pursuant to this section, may acquire professional liability insurance covering the officers and employees, or any group thereof, of a department, institution or agency of State government only if the coverage to be provided by such policy is in excess of the protection provided by Articles 31 and 31A of General Statutes Chapter 143.

(c) The purchase, by any State department, institution or agency of professional liability insurance covering the law enforcement officers, officers or employees of such department, institution or agency shall not be construed as a waiver of any defense of sovereign immunity by such department, institution or agency. The purchase of such insurance shall not be deemed a waiver by any employee of the defense of sovereign immunity to the extent that such defense may be available to him.

(d) The payment, by any State department, institution or agency of funds as premiums for professional liability insurance through the plan provided herein, covering the law enforcement officers or officials or employees of such department, institution or agency is hereby declared to be for a public purpose."

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Sec. 4. G.S. 58-194.2 is rewritten to read:
"§ 58-194.2. Insurance and official fidelity bonds for State agencies to be placed by department; exception; costs of placement.—Except as provided in G.S. 143B-424.1, all insurance and all official fidelity and surety bonds authorized for State departments, institutions, and agencies shall be effected and placed by the department, and the cost of such placement shall be paid by the department, institution, or agency involved upon bills rendered to and approved by the Commissioner."

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 1000     CHAPTER 1110
AN ACT TO APPROPRIATE FUNDS FOR THE SUPPORT OF THE NORTH CAROLINA SHAKESPEARE FESTIVAL, INCORPORATED.

Whereas, the North Carolina Shakespeare Festival, Incorporated, was created to provide a resident theatre in North Carolina to offer a regular program of professionally produced classical theatre in the State; and

Whereas, the North Carolina Shakespeare Festival, based in the City of High Point, presented its first season in 1977 with the production of two Shakespeare plays and one by Moliere, and these performances were attended by more than 11,000 persons from all areas of North Carolina, and received consistently high critical reviews; and

Whereas, the Shakespeare Festival cooperates with the North Carolina School of the Arts at Winston-Salem, sponsors an Actor-in-the-Schools program to bring professional actors into the cultural programs provided by our schools, and through its professional acting company presents performances at various cities in North Carolina; and

Whereas, the North Carolina Shakespeare Festival is the State Shakespeare Festival, and fills a cultural gap in North Carolina; and

Whereas, the North Carolina Shakespeare Festival is becoming an important attraction to tourists, business, and industry; and

Whereas, the management of the Shakespeare Festival has set an example of sound management and fiscal responsibility in the performing arts; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Cultural Resources, in addition to all other appropriations, the sum of twenty-five thousand dollars ($25,000) for fiscal year 1981-82 to be used as operating funds by the North Carolina Shakespeare Festival, Incorporated.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.
H. B. 1006  

CHAPTER 1111
AN ACT TO APPROPRIATE FUNDS TO ASSIST LOCAL GOVERNMENTS WITH PROBLEMS OF SOLID WASTE.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Human Resources the sum of seventy-five thousand dollars ($75,000) for the fiscal year 1981-82 for the purpose of providing matching grants to local governmental units to assist them in solving problems of solid waste. These funds shall be used for dollar-for-dollar match grants-in-aid to local governmental units, but in no event shall the State's share be more than twenty-five percent (25%) of the total cost of any proposed project.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 1035  

CHAPTER 1112
AN ACT TO APPROPRIATE FUNDS TO THE DIVISION OF ARCHIVES AND HISTORY FOR PUBLICATION OF A BRIEF HISTORY OF ROCKINGHAM COUNTY.

Whereas, the County of Rockingham has had a long and illustrious history, having been formed from Guilford County in 1785; and

Whereas, Rockingham County is the birthplace of six governors of North Carolina; and

Whereas, the history of Rockingham County has been written by Dr. Lindley S. Butler, a competent historian and a resident of Rockingham County; and

Whereas, the Division of Archives and History has, over a period of more than a decade, published seven brief county histories; and

Whereas, the history of Rockingham County would be a valuable addition to the county history series being published by the Division of Archives and History; and

Whereas, such a history would add to the knowledge of school children and adult citizens of North Carolina interested in the heritage of their State; and

Whereas, the manuscript of the history has been accepted for publication but has not yet been published because of the limited budget available for historical publications; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Cultural Resources, Division of Archives and History, Historical Publications Section, the sum of five thousand dollars ($5,000) for fiscal year 1981-82, over and above all other appropriations for that section, to aid in the printing of the Rockingham County history.

Sec. 2. The published Rockingham County history shall be sold and distributed as any other publication issued through the Historical Publications Section of the Department of Cultural Resources as provided in G.S. 121-6.

Sec. 3. This act shall become effective upon ratification.
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In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 1100  CHAPTER 1113
AN ACT TO APPROPRIATE FUNDS FOR AN AREA SENIOR CITIZENS' CENTER IN CHARLOTTE.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Administration the sum of seventy-five thousand dollars ($75,000) for the 1981-82 fiscal year for the purchase, construction or renovation and equipping of an Area Senior Citizens' Center in Charlotte by the Mecklenburg County Council on Aging.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 1143  CHAPTER 1114
AN ACT TO ADOPT THE QUALITY ASSURANCE PROGRAM ESTABLISHED JOINTLY BY THE STATE BOARD OF EDUCATION AND THE BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA AND TO APPROPRIATE FUNDS FOR THAT PURPOSE.

Whereas, universal education is accepted as the right of every child; and

Whereas, the basic obligation to provide educational opportunities for children rests with each individual state; and

Whereas, in assuming responsibility for all public education, the State also assumes responsibility for the quality of that education; and

Whereas, the public has expressed its expectation that instructional programs in the schools of this State should provide our children with basic knowledge and competence to meet life's needs in an adult society; and

Whereas, the cornerstone for any instructional program is the quality of the professional personnel charged with the responsibility of carrying out the objectives of the instructional program; and

Whereas, North Carolina has used certification of professional personnel as the basic means of assuring that personnel have the minimum academic and professional skills necessary to meet the objectives of the instructional programs offered to our children; and

Whereas, the certification of teachers is a responsibility discharged by every state in the United States with differing program approaches being used by the various states as the means of qualifying individuals for certification to fill professional positions; and

Whereas, many states, including North Carolina, have undertaken efforts to improve the quality of their professional personnel; and

Whereas, the North Carolina approach, which involves a major effort jointly supported by the State Board of Education and the Board of Governors of The University of North Carolina, is the most careful, systematic, comprehensive effort undertaken by any state based on the best in research and creative work in other states; and
Whereas, the Quality Assurance Program established by these Boards seeks quality preparation in teacher education through the following components:

- in college entrance requirements of prospective teachers;
- in diagnostic, evaluated processes for programs in general education;
- in teaching area program requirements and components;
- in an effective working partnership between institutions of higher education and public schools especially relating to laboratory experiences;
- in comprehensive exit evaluations;
- in performance evaluation and education support systems;
- in evaluation of the competency-based program approach;
- in testing the effectiveness of the Quality Assurance Program approach for evaluation of the product through field testing; and

Whereas, this comprehensive program of quality assurance is intended to improve programs covering the entire range from preparation through performance; and

Whereas, the Quality Assurance Program is designed to expand its coverage to other educational personnel; and

Whereas, implementation of the program thus far has been performed at a minimal cost to the State, that cost being one hundred thousand dollars ($100,000); and

Whereas, the Quality Assurance Program established and implemented by the unified efforts of the State Board of Education and the Board of Governors of The University of North Carolina is found to be worthy of the endorsement and full support of the General Assembly; and

Whereas, the State Board of Education and the Board of Governors of The University of North Carolina are commended for their foresight and thoroughness in assuming the responsibility and striving to improve their own professional quality; and

Whereas, the liaison committee of the two boards is especially commended for its diligence in establishing a high degree of unity between the two boards and consensus among personnel involved in the education of children and adults necessary to produce their excellent results; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The Quality Assurance Program established by the State Board of Education and the Board of Governors of The University of North Carolina is adopted as the means by which teacher competency in North Carolina is enhanced and assured.

Sec. 2. There is appropriated from the General Fund to the State Board of Education the sum of eighty-five thousand dollars ($85,000) for the fiscal year 1981-82 over and above all other appropriations to the State Board of Education, for the purpose of carrying out the various elements of this program.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.
AN ACT TO APPROPRIATE FUNDS FOR THE CONSTRUCTION OF THE WORLD OF THE UNDERGROUND EXHIBIT AT THE WESTERN NORTH CAROLINA NATURE CENTER IN ASHEVILLE.

Whereas, the Western North Carolina Nature Center opened in May 1977 as a specialized agency of the Buncombe County Parks and Recreation Department; and

Whereas, it has been visited each year by school children from 19 Western North Carolina counties and the general public exceeding 60,000 visitors per year; and

Whereas, it serves the western region of North Carolina as a regional zoo, natural history museum, educational farm, park, and environmental learning center; and

Whereas, it benefits from 8,000 hours of volunteer service each year; and

Whereas, local governments, corporations, foundations, private organizations, businesses and individuals have all contributed to capital improvements now valued at more than seven hundred fifty thousand dollars ($750,000); and

Whereas, a major corporation provided funds for a World of the Underground exhibit area; and

Whereas, that exhibit area has been completed and is in need of exhibits; and

Whereas, World of the Underground exhibits will help Nature Center visitors better understand and appreciate the dynamic natural processes occurring in the soil; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Agriculture, Museum of Natural History, the sum of eight thousand dollars ($8,000) for fiscal year 1981-82, to be expended for the design, construction, and installation of exhibits in the World of the Underground at the Western North Carolina Nature Center, provided a like amount is raised by the Western North Carolina Nature Center to match the grant-in-aid on a dollar for dollar basis. The Center may apply to the Museum, from time to time, for the funds appropriated under this act, as it raises the matching funds. Any appropriated money not used or not matched shall revert to the General Fund.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.
H. B. 1170  CHAPTER 1116
AN ACT TO ALLOW PRIOR SERVICE CREDIT FOR TEMPORARY STATE EMPLOYMENT IN THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 135-4 is amended by adding a new subsection (p) to read as follows:

"(p) Credit for prior temporary State employment. Notwithstanding any other provision of this Chapter, a member may purchase service credit for temporary State employment upon completion of 10 years of membership service and subject to the condition that the member had been classified as a temporary employee for more than three years. Each employer shall certify to the Board of Trustees that an employee is eligible to purchase this service credit prior to the member making payment. Payment for the service credit shall be in a single lump sum based upon the amount the member would have contributed if he had been properly classified as a permanent employee and been a member of this retirement system."

Sec. 2. There is appropriated from the General Fund to the Department of State Treasurer, Teachers' and State Employees' Retirement System, the sum of one hundred thousand dollars ($100,000) for the fiscal year 1981-82 for the purpose of making the employer's contribution for those employees with more than three years temporary service eligible to purchase their service pursuant to Section 1. This payment is conditional upon the member making the payment required in Section 1 of this act.

Sec. 3. The provisions of this act shall be implemented to the extent appropriations are provided by the General Assembly but nothing herein contained shall be construed to obligate the General Assembly to appropriate additional funds.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 1172  CHAPTER 1117
AN ACT TO PERMIT THE USE OF STATE GRANT FUNDS TO COVER CERTAIN DIRECT ADMINISTRATIVE AND SERVICE COSTS AND TO MODIFY THE DEPARTMENT OF TRANSPORTATION'S AUTHORITY TO CONDUCT SAFETY PROJECTS AT PUBLIC AIRPORTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 63-68(2) is hereby amended by deleting the remainder of the first sentence beginning with the words "using Department of Transportation personnel" and substituting in lieu therefor the following:

"using one hundred percent (100%) State funding in its discretion the Department of Transportation may purchase, install and maintain navigational aids necessary for the safe, efficient use of airspace and may conduct other projects or programs to improve the safety of the air transportation system, including but not limited to, making serviceable runways and taxiways."
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Sec. 2. G.S. 63-68(3) is hereby amended by adding at the end thereof a new sentence which shall read as follows:

"The Department of Transportation may utilize the State Aviation Grant Funds to cover the direct costs, other than salaries, of administering airport grant projects and the full costs of services provided by non-administrative Department of Transportation divisions or other State agencies in connection with these projects."

Sec. 3. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 1250    CHAPTER 1118
AN ACT TO APPROPRIATE FUNDS TO THE LAKE WACCAMAW STATE PARK.

Whereas, in 1977 the State of North Carolina purchased about 270 acres of woodland along the high, sandy south ridge of historic Lake Waccamaw for immediate development as a State park for all the people of the State; and

Whereas, a park ranger was hired about three years ago and picnic and park facilities have been established; and

Whereas, the public is deterred from visiting this beautiful, natural setting because the only access to the park is a remote and unstable logging trail; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Natural Resources and Community Development for the fiscal year 1981-82 the sum of one hundred thousand dollars ($100,000) to establish better public access to the Lake Waccamaw State Park and for other improvements to the park.

Sec. 2. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 1370    CHAPTER 1119
AN ACT TO APPROPRIATE FUNDS FOR PROGRAMS WHICH REDUCE DRUG RELATED CRIME AND CRIMINAL RECIDIVISM AMONG SUBSTANCE ABUSING OFFENDERS.

Whereas, the Greensboro Drug Action Council and Drug Action of Wake County are mandated by contract with the Department of Human Resources, Division of Mental Health, Mental Retardation, and Substance Abuse Services to provide drug abuse treatment, prevention and intervention services to the people of the State of North Carolina; and

Whereas, these agencies are the sponsors of the Treatment Alternatives to Street Crimes (TASC) Program; and

Whereas, the goals of the TASC Program are to reduce drug related crime and criminal recidivism among substance abusing offenders by providing a mechanism for referral of appropriate offenders to community based treatment programs; and
Whereas, TASC benefits the treatment of substance abusers by improving client retention rates through criminal justice sanctions imposed, by using medical evidence to document the use of drugs by a client and by providing follow-up on the health, education, employment and avoidance of criminal activity by a client; and

Whereas, TASC benefits the criminal justice system by easing overcrowding in local jails by expediting pretrial release of offenders, by reducing jail medical crises through early identification of persons experiencing drug withdrawal, by providing the courts with objective assessment data and by providing a sentencing alternative to incarceration of substance abusers; and

Whereas, TASC benefits the community by reducing the costs of incarceration of substance abusers, by reducing the costs of processing and maintaining substance abusers, by reducing the costs of burglaries and other property related crimes and by assisting substance abusers to become productive, tax paying citizens; and

Whereas, TASC's annual cost per client is less than four hundred fifty dollars ($450.00) which is substantially less than the State's costs of incarceration of these persons; and

Whereas, TASC's success rate of sixty-five percent (65%) and recidivism rate of fifteen percent (15%) are significantly less than the State penal system recidivism rate of sixty-five percent (65%); Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Human Resources, Division of Mental Health, Mental Retardation and Substance Abuse Services the sum of one hundred forty thousand dollars ($140,000) for the 1981-82 fiscal year for the purpose of contracting for programs which reduce drug related crime and criminal recidivism among substance abusing offenders.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 1376

CHAPTER 1120

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF HUMAN RESOURCES TO ESTABLISH A COMPREHENSIVE IN-HOME SCREENING SERVICE.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Human Resources the sum of fifty thousand dollars ($50,000) for fiscal year 1981-82, to develop a comprehensive in-home screening program for elderly people who need care to ascertain the least restrictive level of care that meets the elderly person's needs.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.
CHAPTER 1121 Session Laws—1981

H. B. 1394 CHAPTER 1121
AN ACT TO APPROPRIATE FUNDS FROM THE GENERAL FUND TO THE DEPARTMENT OF JUSTICE FOR SPECIAL FUND MONEY.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Justice the sum of one hundred thousand dollars ($100,000) for fiscal year 1981-82 for special fund money.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 1396 CHAPTER 1122
AN ACT TO APPROPRIATE FUNDS FOR THE AMERICAN DANCE FESTIVAL.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Cultural Resources for fiscal year 1981-82 the sum of twenty-five thousand dollars ($25,000) as a grant-in-aid to the American Dance Festival.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 1404 CHAPTER 1123
AN ACT TO APPROPRIATE FUNDS FOR A TRUCK DRIVER TRAINING PROGRAM FACILITY AT JOHNSTON TECHNICAL COLLEGE.

Whereas, the special North Carolina truck driver training program was assigned to Johnston Technical College in October 1977; and

Whereas, temporary quarters were set up behind the Polk Youth Center in Raleigh, since neither space nor facilities to house the program was then available in Smithfield; and

Whereas, the program is still located in Raleigh; and

Whereas, Johnston Technical College has been relocated so that space is now available for permanent quarters for the program; and

Whereas, three hundred sixty thousand dollars ($360,000) has been raised in public and private gifts, donations and appropriations toward the development of permanent facilities for the program; and

Whereas, one hundred seventy-five thousand dollars ($175,000) more is needed to complete the facilities; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to Department of Community Colleges for the fiscal year 1981-82 the sum of one hundred seventy-five thousand dollars ($175,000) for permanent facilities at Johnston Technical College for the special North Carolina truck driver training program.

Sec. 2. The General Assembly intends this appropriation to be the final State funds for this project.
Sec. 3. Notwithstanding any other law, Johnston Technical College shall not be required to hire an architect for this project, and no further architectural designs or review of designs other than those already completed need be done.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 1424 CHAPTER 1124
AN ACT TO APPROPRIATE FUNDS FOR THE FRANK HOLDER DANCE COMPANY.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Cultural Resources the sum of twenty-five thousand dollars ($25,000) for capital improvements for fiscal year 1981-82 for equipment for the Greensboro based Frank Holder Dance Company to enable it to continue its Rural Communities Program which allowed it to perform in 33 North Carolina counties last year.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 835 CHAPTER 1125
AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF CULTURAL RESOURCES FOR A GRANT TO THE CAROLINA THEATRE IN GREENSBORO.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Cultural Resources the sum of twenty-five thousand dollars ($25,000) for fiscal year 1981-82 for the following improvements in the Carolina Theatre in Greensboro: installing restrooms for the handicapped, installing a new fire alarm and emergency lighting system, converting the furnace from fuel oil to natural gas, and expanding the box office. This appropriation is for a grant-in-aid to be matched on a dollar-for-dollar basis from private donations. The Carolina Theatre may apply to the Department from time to time for the funds appropriated by this act, as it raises the matching funds. Any appropriated money not used or not matched shall revert to the General Fund.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.
CHAPTER 1126  Session Laws—1981

H. B. 754  CHAPTER 1126

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT, DIVISION OF MARINE FISHERIES, TO ALLOW THE DIVISION TO CONTINUE TO PROTECT PUBLIC HEALTH AND PUBLIC RESOURCES AND TO INCREASE SHELLFISH REHABILITATION AND MANAGEMENT EFFORTS AND TO MAKE OTHER APPROPRIATIONS.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Natural Resources and Community Development the sum of four hundred eighty-five thousand dollars ($485,000) for the 1981-82 fiscal year to fund the operation of the Marine Fisheries Division. The funds shall be used to maintain the current levels of operations in order to protect public health and public resources and to increase the shellfish rehabilitation and management efforts. These funds are in addition to all other funds appropriated to the Department.

Sec. 2. There is appropriated from the General Fund to the General Assembly for the Legislative Committee on Agency Review, which was established by 1981 Session Laws Chapter 932, the sum of thirty-five thousand dollars ($35,000) for fiscal year 1981-82 for the functions of that Committee.

Sec. 3. In addition to other appropriations, there is appropriated from the General Fund to the General Assembly for the Legislative Research Commission the sum of fifty thousand dollars ($50,000) for the 1981-82 fiscal year to perform the studies authorized in Resolution 61 of the 1981 General Assembly (HJR 1292).

Sec. 4. There is appropriated from the General Fund to the Wildlife Resources Commission the sum of one hundred fifty thousand dollars ($150,000) for the 1981-82 fiscal year for operating expenses.

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 1392  CHAPTER 1127

AN ACT TO MODIFY CURRENT OPERATIONS AND CAPITAL IMPROVEMENTS APPROPRIATIONS FOR NORTH CAROLINA STATE GOVERNMENT FOR THE FISCAL YEAR 1981-82 AND TO MAKE OTHER CHANGES IN THE BUDGET OPERATIONS OF THE STATE.

The General Assembly of North Carolina enacts:

—APPROPRIATIONS FOR MAXIMUMS/REVERT BALANCES

Section 1. The appropriations made in this act are for maximum amounts necessary to provide the services and accomplish the purposes described in the State budget. Savings shall be effected where the total amounts appropriated are not required to perform these services and accomplish these purposes, and except as allowed by the Executive Budget Act or this act, the savings shall revert to the appropriate fund at the end of the fiscal year.
An outline of the provisions of the act follows this section. The outline begins with the heading “—CONTENTS/INDEX—” and it lists by general category the descriptive captions for the various sections and groups of sections that make up the act.

—CONTENTS/INDEX—

(This outline is designed for reference only, and it in no way limits, defines, or prescribes the scope or application of the text of the act.)

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PART II.—CURRENT OPERATIONS—HIGHWAY FUND
  Sec. 3.

PART III.—CAPITAL IMPROVEMENTS—GENERAL FUND
  Sec. 4.

PART IV.—CAPITAL IMPROVEMENTS HIGHWAY FUND
  Sec. 5.

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—GOVERNOR/SALARY
  Sec. 7.
—LEGISLATIVE EMPLOYEES/FIVE PERCENT SALARY INCREASE
  Sec. 8.
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—JUDICIAL BRANCH OFFICIALS/SALARIES
  Sec. 10.
—MAGISTRATES/SALARIES
  Sec. 11.
—CLERKS OF COURT/SALARIES
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   Sec. 29.
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   Sec. 30.
—CERTIFICATE OF NEED/BED CAPACITY LIMITATIONS
   Sec. 31.
—PHYSICAL FITNESS/IN-KIND MATCH
   Sec. 32.
—SALE OF REAL PROPERTY/BUTNER
   Sec. 33.
—SENIOR CITIZENS' CENTERS/STATE AID
   Sec. 34.
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Sec. 53.1. —ADMINISTRATION OF CERTAIN FUNDS FOR BUTNER
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PART I.—CURRENT OPERATIONS—GENERAL FUND

Sec. 2. The items and amounts appropriated for fiscal year 1981-82 from the General Fund in Section 2 of the 1981 Session Laws Chapter 859 are repealed, and appropriations from the General Fund for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated are made for the fiscal year ending June 30, 1982, according to the following schedule:

<table>
<thead>
<tr>
<th>Current Operations-General Fund</th>
<th>1981-82</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Assembly</td>
<td>$8,465,081</td>
</tr>
<tr>
<td>Judicial Department</td>
<td>87,881,805</td>
</tr>
<tr>
<td>Department of The Governor</td>
<td></td>
</tr>
<tr>
<td>01. Office of The Governor</td>
<td>1,678,460</td>
</tr>
<tr>
<td>02. Office of Citizens Affairs</td>
<td>719,066</td>
</tr>
<tr>
<td>03. Office of State Budget and Management</td>
<td>2,953,930</td>
</tr>
<tr>
<td>Total Department of The Governor</td>
<td>5,351,456</td>
</tr>
<tr>
<td>Lieutenant Governor’s Office</td>
<td>305,606</td>
</tr>
<tr>
<td>Department of Secretary of State</td>
<td>789,340</td>
</tr>
<tr>
<td>Department of State Auditor</td>
<td></td>
</tr>
<tr>
<td>01. Operations</td>
<td>5,925,947</td>
</tr>
<tr>
<td>02. Firemen &amp; Rescue Squad</td>
<td>2,093,400</td>
</tr>
<tr>
<td>Pensions</td>
<td></td>
</tr>
<tr>
<td>Total Department of State Auditor</td>
<td>8,019,347</td>
</tr>
<tr>
<td>Department of State Treasurer</td>
<td></td>
</tr>
<tr>
<td>01. Operations</td>
<td>1,564,514</td>
</tr>
<tr>
<td>02. Retiree Benefits</td>
<td>14,574,310</td>
</tr>
<tr>
<td>03. Law Enforcement Officers’ Retirement-Local’s Share</td>
<td>5,841,000</td>
</tr>
<tr>
<td>Total Department of State Treasurer</td>
<td>21,979,824</td>
</tr>
<tr>
<td>Department of Public Education</td>
<td></td>
</tr>
<tr>
<td>01. Program Administration and Support</td>
<td>16,702,162</td>
</tr>
<tr>
<td>02. Fiscal Administration and Support</td>
<td>1,441,937,253</td>
</tr>
<tr>
<td>Total Department of Public Education</td>
<td>1,458,639,415</td>
</tr>
<tr>
<td>Department of Community Colleges</td>
<td>189,530,203</td>
</tr>
<tr>
<td>Department of Justice</td>
<td>24,631,728</td>
</tr>
<tr>
<td>Department of Agriculture</td>
<td>21,645,820</td>
</tr>
<tr>
<td>Department of Labor</td>
<td>4,457,927</td>
</tr>
<tr>
<td>Department of Insurance</td>
<td>4,040,385</td>
</tr>
<tr>
<td>Department of Administration</td>
<td>33,125,546</td>
</tr>
<tr>
<td>Reserve for Microelectronics</td>
<td></td>
</tr>
<tr>
<td>Center of North Carolina</td>
<td>2,991,000</td>
</tr>
<tr>
<td>Department of Transportation</td>
<td></td>
</tr>
<tr>
<td>01. Public Transportation</td>
<td>1,340,000</td>
</tr>
<tr>
<td>02. Aeronautics</td>
<td>3,616,571</td>
</tr>
</tbody>
</table>

1627
Aid to Railroads 100,000
Total Department of Transportation 5,056,571
Department of Natural Resources and Community Development 36,064,619
Department of Human Resources
01. Alcoholic Rehabilitation Center - Black Mountain 2,365,790
02. Alcoholic Rehabilitation Center - Butner 1,674,513
03. Alcoholic Rehabilitation Center - Greenville 1,458,945
04. N.C. Special Care Center 2,902,299
05. DHR - Administration and Support Program 18,519,292
06. N.C. School for the Deaf 5,871,884
07. Eastern N.C. School for the Deaf 3,720,999
08. Central N.C. School for the Deaf 2,266,930
09. Governor Morehead School 3,585,598
10. Division of Health Services 49,383,890
11. Lenox Baker Hospital 382,456
12. McCain Hospital 2,767,802
13. Social Services 64,280,031
14. Medical Assistance 150,936,885
15. Social Services - State Aid to Non-State Agencies 3,776,170
16. Division of Services for the Blind 4,539,472
17. Division of Mental Health and Mental Retardation Services 59,195,943
18. Wright School 899,289
19. Dorothea Dix Hospital 23,636,908
20. Broughton Hospital 22,684,434
21. Cherry Hospital 21,293,472
22. John Umstead Hospital 19,379,385
23. Western Carolina Center 5,299,399
24. O'Berry Center 3,108,225
25. Murdoch Center 16,504,772
26. Caswell Center 17,304,539
27. Division of Facility Services 7,428,863
28. Division of Vocational Rehabilitation Services 14,900,763
29. Division of Youth Services 19,060,988
30. Special Aid to Counties 2,000,000
Total Department of Human Resources 551,129,936
Department of Correction 154,810,310
Department of Commerce 17,248,899

1628
Department of Revenue 27,353,974
Department of Cultural Resources 19,096,152
Department of Crime Control and Public Safety 8,133,854
University of North Carolina - Board of Governors
  01. General Administration 7,383,765
  02. University Operations - Lump Sum 32,301,694
  03. Related Educational Programs 25,787,075
  04. Agriculture Programs 500,000
  05. Center for Alcoholic Studies 175,000
  06. University of North Carolina at Chapel Hill
      a. Academic Affairs 69,688,679
      b. Division of Health Affairs 48,164,765
      c. Area Health Education Centers 18,204,203
  07. North Carolina State University at Raleigh
      a. Academic Affairs 71,584,532
      b. Agricultural Research Service 19,593,064
      c. Agricultural Extension Service 14,923,831
  08. University of North Carolina at Greensboro 27,037,468
  09. University of North Carolina at Charlotte 21,459,490
  10. University of North Carolina at Asheville 5,026,262
  11. University of North Carolina at Wilmington 11,466,651
  12. East Carolina University 49,673,833
  13. North Carolina Agricultural and Technical State University 17,803,183
  14. Western Carolina University 17,475,601
  15. Appalachian State University 25,197,031
  16. Pembroke State University 6,620,934
  17. Winston-Salem State University 7,508,185
  18. Elizabeth City State University 6,298,738
  19. Fayetteville State University 7,079,918
  20. North Carolina Central University 14,901,764
  21. North Carolina School of the Arts 4,287,924
  22. North Carolina Memorial Hospital 24,113,781
Total University of North Carolina 554,257,371
State Board of Elections 215,608
Contingency and Emergency 1,125,000

1629
Reserve for Salary Adjustments 1,896,882
Reserve for Retirees' Formula Change 1,643,470
Reserve for Cost-of-Living Adjustment for Retirees 3,947,000
Reserve for Ninth Step 2,300,000
Reserve for Travel 300,000
Reserve for Hospital-Medical Rate Increase 12,081,300
Reserve for Legislative Cost-of-Living Salary Increase 62,900,000
Reserve for Office Furniture and Equipment 500,000
Reserve for Unreduced Retirement Allowance 213,000
Debt Service - Interest 31,562,550
Debt Service - Redemption 33,500,000

GRAND TOTAL CURRENT OPERATIONS - GENERAL FUND $3,397,190,979

PART II — CURRENT OPERATIONS—HIGHWAY FUND

Sec. 3. The amounts appropriated for fiscal year 1981-82 from the Highway Fund in Section 3 of the 1981 Session Laws Chapter 859 are repealed, and appropriations from the Highway Fund for the expense of collecting revenues, for the service of the highway debt, and for the maintenance of transportation related activities are made for the fiscal year ending June 30, 1982, according to the following schedule:

Current Operations - Highway Fund 1981-82

Department of Transportation $ 15,011,287
01. Administration
02. Highways
   a. Administration and Operations 23,244,984
   b. State Construction
      (01) Primary 200,000
      (02) Secondary 30,932,000
      (03) Urban - Small Urban Program 3,800,000
      (04) Access and Public Service Roads 2,000,000
      (05) Bridge Replacements
   c. State Funds to Match Federal Highway Aid
      (01) Construction 11,558,423
      (02) Planning Survey and Highway Planning Research 1,156,511
   d. State Maintenance
      (01) Primary 59,727,402
      (02) Secondary 92,987,857
      (03) Urban 14,251,348

1630
(04) Contract Resurfacing 79,931,037
c. Ferry Operations 8,349,143
d. State Aid to Municipalities 30,932,000
e. Merit Salary Increments for Central Offices and Division of Highways 2,185,552
f. Employers’ Contributions for Central Offices and Division of Highways
   (01) Social Security 11,285,614
   (02) Retirement 15,681,275
   (03) Hospital/Medical Insurance 4,701,484
03. Division of Motor Vehicles 34,029,254
04. Governor’s Highway Safety Program 142,554
05. Reserve for Retirees’ Cost-of-Living Adjustment 368,000
06. Reserve for Unreduced Retirement Allowance 19,000
07. Reserve for Retirees’ Formula Change 354,575
08. Salary Adjustments for Highway Fund Employees 200,000
09. Reserve for Ninth Step 377,250
10. Debt Service 34,138,000
11. Reserve to Correct Occupational Safety & Health Act Deficiencies 350,000
12. Reserve for Hospital/Medical Rate Increase 992,000
13. Reserve for Legislative Cost-of-Living Salary Increase 2,976,480
14. Reserve for Office Furniture and Equipment 60,000
15. Appropriations for Other State Agencies
   01. Crime Control & Public Safety
       a. Operations 45,529,880
   02. Other Agencies
       a. Department of Agriculture 1,610,296
       b. Department of Commerce 582,376
       c. Department of Revenue 1,056,196
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    d. Department of Human Resources 222,438
    e. Department of Correction 1,600,000

Contingencies and Emergency Fund 100,000

GRAND TOTAL CURRENT OPERATIONS-

HIGHPWAY FUND $ 533,812,888

PART III.—CAPITAL IMPROVEMENTS—GENERAL FUND

Sec. 4. The items and amounts appropriated for fiscal year 1981-82 from the General Fund in the schedule in Section 4 of the 1981 Session Laws Chapter 860 are repealed, and appropriations are made from the General Fund for use by State institutions, departments and agencies to provide for capital improvement projects according to the following schedule:

<table>
<thead>
<tr>
<th>Agency</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Capital Improvements—General Fund</td>
<td>1981-82</td>
</tr>
<tr>
<td>GENERAL ASSEMBLY (TOTAL)</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>01. Reserve for Renovations and Repairs</td>
<td>1,000,000</td>
</tr>
<tr>
<td>DEPARTMENT OF ADMINISTRATION (TOTAL)</td>
<td>6,806,903</td>
</tr>
<tr>
<td>01. Renovations and Repairs-Government Center</td>
<td>100,000</td>
</tr>
<tr>
<td>02. Energy Retrofit-Government Center</td>
<td>220,000</td>
</tr>
<tr>
<td>03. Asbestos Control Projects</td>
<td>250,000</td>
</tr>
<tr>
<td>04. Architectural Barrier Removal-Government Center</td>
<td>125,000</td>
</tr>
<tr>
<td>05. State Office Building-Charlotte</td>
<td>4,100,000</td>
</tr>
<tr>
<td>06. Renovations at the North Carolina School of Science and Math</td>
<td>2,350,000</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Agency</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund</td>
<td>2,011,903</td>
</tr>
<tr>
<td>DEPARTMENT OF AGRICULTURE (TOTAL)</td>
<td>4,165,000</td>
</tr>
<tr>
<td>01. Development of Horse and Livestock Facility - Raleigh</td>
<td>2,500,000</td>
</tr>
<tr>
<td>02. Development of Horse and Livestock Facility - Asheville</td>
<td>1,650,000</td>
</tr>
<tr>
<td>03. Hampton Mariner’s Museum-Beaufort</td>
<td></td>
</tr>
<tr>
<td>03. Wholesale Fruit and Vegetable Building-Western Farmer’s Market</td>
<td>15,000</td>
</tr>
<tr>
<td>THE UNIVERSITY OF NORTH CAROLINA BOARD OF GOVERNORS (TOTAL)</td>
<td>5,220,000</td>
</tr>
<tr>
<td>Funds to be Applied Toward Schedule of Priorities-Capital Improvements:</td>
<td></td>
</tr>
<tr>
<td>01. Reserve for Planning</td>
<td>4,900,000</td>
</tr>
<tr>
<td>02. Reserve for Construction</td>
<td></td>
</tr>
<tr>
<td>AGRICULTURAL PROGRAMS</td>
<td></td>
</tr>
<tr>
<td>01. Land Acquisition-Mountain Horticultural Crops Station</td>
<td>320,000</td>
</tr>
<tr>
<td>DEPARTMENT OF COMMERCE (TOTAL)</td>
<td>10,000</td>
</tr>
<tr>
<td>01. Supplemental Construction Funds-1-77 South Welcome Center</td>
<td>100,000</td>
</tr>
<tr>
<td>Less Receipts</td>
<td>90,000</td>
</tr>
<tr>
<td>General Fund</td>
<td>10,000</td>
</tr>
</tbody>
</table>
### DEPARTMENT OF CORRECTION (TOTAL) $750,000
- **01.** 196-Bed Single Cell Facility-Central Prison -
- **02.** Sewer Renovations $750,000

### DEPARTMENT OF CULTURAL RESOURCES (TOTAL) $1,000,000
- **01.** Reserve for State Aid for Library Construction, Additions, and Renovation $1,000,000

### DEPARTMENT OF HUMAN RESOURCES (TOTAL) $4,347,000
- **01.** Renovation of Vocational Rehabilitation Building-Caswell Center $100,000
- **02.** Renovations to R&S Wards and Air Conditioning to Center Building-Broughton Hospital $200,000
- **03.** Renovations to B-3 Building-Murdoch Center $1,482,000
- **04.** Renovations to B-4 Building-Murdoch Center -
- **05.** Child and Youth Complex, Phase I-Murdoch Center $2,510,000
- **06.** Laurel Medical Facility-Movable Equipment $55,000

### DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT (TOTAL) $3,549,824
- **01.** Commercial Fisheries Aircraft Hangar-Morehead City $149,824
- **02.** Reserve for Beach Restoration, Hurricane Flood Protection, Beach Erosion Control and Beach Access $3,400,000

**GRAND TOTAL GENERAL FUND APPROPRIATION** $26,848,727

### PART IV. CAPITAL IMPROVEMENTS—HIGHWAY FUND

Sec. 5. Appropriations are made from the Highway Fund for use of the Department of Transportation to provide for capital improvement projects according to the following schedule:

<table>
<thead>
<tr>
<th>Capital Improvements—Highway Fund</th>
<th>1981-82</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>DEPARTMENT OF TRANSPORTATION (TOTAL)</strong> $1,200,000</td>
<td></td>
</tr>
<tr>
<td><strong>01.</strong> Reserve for Ferry Maintenance Facility $1,200,000</td>
<td></td>
</tr>
</tbody>
</table>

**GRAND TOTAL HIGHWAY FUND APPROPRIATION** $1,200,000

### PART V. SPECIAL PROVISIONS/SALARY INCREASES

**—MOST STATE EMPLOYEES/FIVE PERCENT SALARY INCREASE ADMIN.**

Sec. 6. The salaries in effect on December 31, 1981, for all permanent State employees paid from the General Fund or the Highway Fund shall be increased on January 1, 1982, by an average of five percent (5%) rounded to conform to the steps in the salary ranges which the State Personnel Commission adopts. If the salary in effect on December 31, 1981, for an employee is not equal to a specific pay rate in the salary schedule effective on that date, his annual increase shall be the amount applicable to the next lower
pay rate. The Director of the Budget is authorized to transfer from the appropriations in Sections 2 and 3 of this act for this purpose all funds necessary for the five percent (5%) average increase, including funds for the employer’s retirement and Social Security contributions.

Except as otherwise provided in this act, the salaries of State officials, department secretaries, and persons in exempt positions which are recommended by the Governor or the Governor and the Advisory Budget Commission and set by the General Assembly shall be increased an average of five percent (5%) commencing January 1, 1982. The Director of the Budget is authorized to transfer from the appropriations in Sections 2 and 3 of this act for this purpose all funds necessary for the five percent (5%) average increase, including funds for the employer’s retirement and Social Security contributions.

The Director of the Budget is authorized to allocate out of special operating funds or from other sources of the employing agency, except tax revenues, sufficient funds to allow a salary increase averaging five percent (5%), including funds for the employer’s retirement and Social Security contributions, for the employees of the agency, provided that the employing agency elects to make available the necessary funds.

The Director of the Budget is authorized to promulgate special rules and regulations to apply to salary increases for employees whose salaries are paid from interagency receipts where payments for the services of those employees originate from State appropriations to the end that the effective purchasing power of the appropriations is not materially reduced as a result of these salary increases. The salary increase may average up to five percent (5%), and funds made available for it shall include amounts necessary for the increase and the employer’s retirement and Social Security contributions. Any questions as to the applicability of the provisions of this paragraph shall be resolved by the Director of the Budget.

The salaries of all permanent public school employees paid from allocations to local school units for State Aid-Exceptional Children ADM appropriation, Health Education Coordinator grants, Community Schools Coordinator grants, Vocational Education State Aid Non-Matching Expansion ADM allocation, Vocational Education State Aid Extended Day ADM allocations and State-matching funds for School Food Service Supervisors shall be increased by an average of five percent (5%) commencing January 1, 1982. The Director of the Budget is authorized to transfer from the appropriation provided in Section 2 of this act for legislative salary increases for public school employees all funds necessary for the five percent (5%) salary increase including funds for the employer’s retirement and Social Security contributions.

Salaries for positions which are funded partially from the General Fund and partially from sources other than the General Fund shall be increased from the General Fund appropriation only to the extent of the proportionate part of the salaries paid from the General Fund.

The granting of the legislative salary increases under this section does not affect the status of eligibility for salary increments for which employees may be eligible.

The salary range maximums for all employees under the State Personnel Act shall be increased to accommodate the legislative salary increase so that every employee will continue to have the same relative position with respect to
salary increases and future increments as he would have had if the legislative salary increases had not been made.

The salary increases provided in this act to be effective January 1, 1982, do not apply to persons separated from State service due to resignation, dismissal, reduction in force, death, or retirement whose last work day is prior to January 1, 1982.

Any remaining appropriations for legislative salary increases not required for that purpose may be used to supplement the Salary Adjustment Fund.

Within regular Executive Budget Act procedures as limited by this act, all State agencies and departments are authorized to increase on an equitable basis the rate of pay of temporary State employees, subject to availability of funds in the particular agency or department by pro rata amounts approximately equal to five percent (5%) commencing January 1, 1982.

GOVERNOR/SALARY

Sec. 7. The salary of the Governor is increased by five percent (5%), and, effective January 1, 1982, the first sentence of G.S. 147-11 is rewritten to reflect this increase as follows:

"The salary of the Governor shall be fifty-seven thousand eight hundred sixty-four dollars ($57,864) per annum, payable monthly."

LEGISLATIVE EMPLOYEES/FIVE PERCENT SALARY INCREASE

Sec. 8. The Legislative Services Officer may increase the salaries of nonelected employees of the General Assembly in effect on December 31, 1981, by five percent (5%) commencing January 1, 1982, rounded to the nearest whole dollar figure divisible by 12 and otherwise adjusted to conform with the relative levels of the Legislative Services Commission salary schedule. The granting of this legislative percentage salary increase does not affect the status of employees' eligibility for other salary increments. Funds are appropriated in Section 2 of this act to provide the salary increase authorized by this section, including the employer's retirement and Social Security contributions.

GENERAL ASSEMBLY PRINCIPAL CLERKS/SALARY INCREASES

Sec. 9. Effective January 1, 1982, G.S. 120-37(c) is amended by deleting the phrase "twenty-four thousand four hundred ninety-two dollars ($24,492)" and substituting the phrase "twenty-five thousand seven hundred sixteen dollars ($25,716)" in lieu thereof.

JUDICIAL BRANCH OFFICIALS/SALARIES

Sec. 10. The annual salary, in fiscal year 1981-82, of the specified judicial branch official is as follows:

<table>
<thead>
<tr>
<th>Judicial Branch Officials</th>
<th>1981-82</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chief Justice, Supreme Court</td>
<td>$58,212</td>
</tr>
<tr>
<td>Associate Justice, Supreme Court</td>
<td>57,012</td>
</tr>
<tr>
<td>Chief Judge, Court of Appeals</td>
<td>55,188</td>
</tr>
<tr>
<td>Judge, Court of Appeals</td>
<td>53,976</td>
</tr>
<tr>
<td>Judge, Senior Regular Resident, Superior Court</td>
<td>49,500</td>
</tr>
<tr>
<td>Judge, Superior Court</td>
<td>47,928</td>
</tr>
<tr>
<td>Chief Judge, District Court</td>
<td>40,344</td>
</tr>
<tr>
<td>Judge, District Court</td>
<td>38,808</td>
</tr>
<tr>
<td>District Attorney</td>
<td>44,580</td>
</tr>
<tr>
<td>Assistant District Attorney - an average of</td>
<td>28,824</td>
</tr>
<tr>
<td>Administrative Officer of the Courts</td>
<td>50,940</td>
</tr>
</tbody>
</table>
CHAPTER 1127  Session Laws—1981

Assistant Administrative Officer of the Courts 36,384
Public Defender 44,580
Assistant Public Defender - an average of 28,824

If an acting senior regular resident superior court judge is appointed under the provisions of G.S. 7A-41, he shall receive the salary for Judge, Senior Regular Resident, Superior Court, and the judge he replaces shall receive the salary indicated for Judge, Superior Court.

The district attorney or public defender of a judicial district with the approval of the Administrative Officer of the Courts, shall set the salaries of assistant district attorneys or assistant public defenders, respectively, in that district such that the average salaries of assistant district attorneys or assistant public defenders in that district do not exceed twenty-eight thousand eight hundred twenty-four dollars ($28,824) and the minimum salary of any assistant district attorney or assistant public defender is at least fourteen thousand five hundred fifty-six dollars ($14,556) per annum.

Funds appropriated in Section 2 of this act for salary increases and related employer's retirement and Social Security contributions for permanent employees of the Judicial Department, except for those itemized in this act, shall provide salary increases commencing January 1, 1982, of the same percentage as that authorized in Section 2 of this act for State employees subject to the Personnel Act, rounded to conform to the steps in the salary ranges adopted by the Judicial Department.

—MAGISTRATES/SALARIES

Sec. 11. Effective January 1, 1982, the schedule of salaries of full-time magistrates shown in the table in subdivision (1) of G.S. 7A-171.1 is deleted and the following schedule is substituted:

<table>
<thead>
<tr>
<th>Number of prior years of service</th>
<th>Annual salary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 1</td>
<td>$9,936</td>
</tr>
<tr>
<td>1 or more but less than 3</td>
<td>10,800</td>
</tr>
<tr>
<td>3 or more but less than 5</td>
<td>11,796</td>
</tr>
<tr>
<td>5 or more but less than 7</td>
<td>12,864</td>
</tr>
<tr>
<td>7 or more but less than 9</td>
<td>14,052</td>
</tr>
<tr>
<td>9 or more</td>
<td>15,372</td>
</tr>
</tbody>
</table>

—CLERKS OF COURT/SALARIES

Sec. 12. Effective January 1, 1982, the schedule of salaries of clerks of superior courts beginning on line 5 of G.S. 7A-101 is deleted and the following schedule is substituted:

<table>
<thead>
<tr>
<th>Population</th>
<th>Salary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 19,999</td>
<td>20,016</td>
</tr>
<tr>
<td>20,000 to 49,999</td>
<td>23,664</td>
</tr>
<tr>
<td>50,000 to 99,999</td>
<td>27,300</td>
</tr>
<tr>
<td>100,000 to 199,999</td>
<td>30,936</td>
</tr>
<tr>
<td>200,000 and above</td>
<td>37,608</td>
</tr>
</tbody>
</table>

—COMMUNITY COLLEGES PERSONNEL/SALARY INCREASES

Sec. 13. The Director of the Budget may transfer from the appropriations for this purpose in Section 2 of this act funds necessary to provide an annual average salary increase of five percent (5%), and the employer’s retirement and Social Security contributions, commencing January 1, 1982, for all community college institutional personnel. These funds shall be
allocated to individuals according to rules and regulations established by the State Board of Community Colleges and may not be used for any purpose other than for the salary increases and necessary employer's contributions.

—HIGHER EDUCATION ACADEMIC PERSONNEL/SALARY INCREASES

Sec. 14. The Director of the Budget may transfer from the appropriation in Section 2 of this act, funds necessary to provide an annual average salary increase of five percent (5%), and the employer's retirement and Social Security contributions, commencing January 1, 1982, for employees exempt from the State Personnel Act in the constituent institutions of The University of North Carolina system. These funds shall be allocated to individuals in accordance with rules and regulations established by the Board of Governors and may not be used for any purpose other than for the salary increases and necessary employer's contributions.

—WILDLIFE RESOURCES PERSONNEL/FIVE PERCENT SALARY INCREASES

Sec. 15. The Director of the Budget may, if adequate funds are available in the Wildlife Fund and the Motorboat Fund, transfer from funds appropriated to the Wildlife Resources Commission from the Wildlife Fund and the Motorboat Fund, funds necessary to provide an annual five percent (5%) salary increase and the employer's retirement and Social Security contributions commencing January 1, 1982, for all persons whose salaries are paid from the Wildlife and Motorboat Funds.

—ADDITIONAL MERIT INCREMENT/CERTAIN JUDICIAL DEPARTMENT EMPLOYEES

Sec. 16. Effective January 1, 1982, the Director of the Budget may transfer from appropriations for this purpose in Section 2 of this act, funds necessary for an additional merit increment step for administrative and clerical personnel in the Judicial Department.

—ADDITIONAL MERIT INCREMENT/CERTAIN EXECUTIVE BRANCH EMPLOYEES

Sec. 17. Effective January 1, 1982, the Director of the Budget may transfer from appropriations for this purpose in Section 2 of this act, funds necessary for an additional merit increment step for administrative and clerical personnel in the offices of the Governor and the Lieutenant Governor.

—STEP NINE MERIT INCREMENT/STATE EMPLOYEES

Sec. 18. Effective January 1, 1982, the Director of the Budget may transfer from appropriations for this purpose in Sections 2 and 3 of this act, funds necessary to add a ninth merit increment step for employees subject to the State Personnel Act. The amount allocated for this purpose is derived subject to the limitation in G.S. 126-7 with regard to estimates for annual increments above the third step.

—SALARY INCREASE PAYMENTS/EMPLOYEES HIRED AND PAID ON LESS THAN A 12-MONTH BASIS

Sec. 19. Any full-time teacher or State-paid employee who is hired and paid on less than a 12-month basis and who is granted a five percent (5%) salary increase effective January 1, 1982, pursuant to the provisions of this act, shall, for fiscal year 1981-82, receive an amount equal to five percent (5%) of one-half of his annual salary.

PART VI.—SPECIAL PROVISIONS/RETIREMENT
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---TECHNICAL CORRECTION

**Sec. 20.** Effective July 1, 1981, the second paragraph of Section 45.3 of Chapter 859 of the 1981 Session Laws is amended by deleting the number "5.64" and substituting "10.64".

---CLARIFICATION OF LONGEVITY PAY ADJUSTMENTS FOR CERTAIN STATE EMPLOYEES

**Sec. 21.** The retirement allowances of those school employees who retired between July 1, 1977 and July 10, 1981 shall not be affected by the retroactive longevity payments made pursuant to Chapter 945 of the 1981 Session Laws.

PART VII.—SPECIAL PROVISIONS/HUMAN RESOURCES

---MEDICAID

**Sec. 22.** Section 14 of Chapter 859 of the 1981 Session Laws is repealed.

(1) *Medicaid Reimbursement.*—Appropriations in Section 2 of this act for services provided in accordance with Title XIX of the Social Security Act (Medicaid) are for both the categorically needy and the medically needy. Funds appropriated for such services are to be expended in accordance with the following schedule of services and payment basis. All services and payments are subject to the language at the end of this subsection.

<table>
<thead>
<tr>
<th>Services</th>
<th>Payment Basis</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hospital - Inpatient</td>
<td>On or before December 1, 1981, reimbursement for hospital inpatient services shall be based on per diem rates established by the Department of Human Resources for each hospital participating in the Medicaid program. Payment of Medicaid/Medicare cross-over claims will be based on Medicare rates. After July 1, 1982, payment for hospital inpatient services will be based on a prospective rate reimbursement plan as established by the Department of Human Resources. Administrative days for any period of hospitalization shall be limited to a maximum of three days. 80 percent of allowable costs. Allowable costs.</td>
</tr>
<tr>
<td>Hospital - Outpatient</td>
<td>As prescribed under the State Plan for reimbursing long term care facilities. Effective October 1, 1981, skilled nursing facility participation in the Medicare program is a condition of participation in the North Carolina Medicaid skilled nursing facility program.</td>
</tr>
<tr>
<td>Mental and Specialty Hospitals</td>
<td></td>
</tr>
<tr>
<td>Skilled Nursing Facilities and Intermediate Care Facilities</td>
<td></td>
</tr>
</tbody>
</table>

Intermediate Care

As prescribed under the State
### Facilities for the Mentally Retarded
Plan for reimbursing intermediate care facilities for the mentally retarded effective October 1, 1981.

### Drugs
Drug cost as allowed by federal regulations plus $2.80 professional service fee per month excluding refills for same drug or generic equivalent during the same month. (Payments for drugs are subject to the provisions of subdivision (8) of this section.)

Reimbursement shall be available for up to four prescriptions per recipient, per month, including refills, effective December 1, 1981.

### Physicians, Chiropractors, Podiatrists, Optometrists
90 percent of allowable usual and customary charges.

### Dental
90 percent of allowable usual and customary charges. (Payments for dental services are subject to the provisions of subdivision (7) of this section.)

### Home Health
Allowable costs.

### Medicare Buy-In
Social Security Administration premium.

### Clinic Services
Reasonable customary charges as determined by the State under federal regulations.

### Ambulance Services
100 percent of allowable, reasonable, usual and customary charges.

### EPSDT Screens
Established rate approved by the Department.

### Hearing Aids
Actual cost plus a dispensing fee.

### Rural Health Clinic Services
Provider based - reasonable cost; nonprovider based - single cost reimbursement rate per clinic visit.

### Family Planning
Negotiated rate for local health departments and other providers - see specific services, i.e., hospitals, physicians, etc.

### Independent Laboratory and X-Ray Services
90 percent of allowable usual and customary charges.

### Optical Supplies
100 percent of reasonable wholesale cost of materials.

### Ambulatory Surgical Centers
Negotiated rates, established by the Department of Human Resources.

### Mental Health Clinics
Reimbursement of allowable, usual and reasonable charges.
Medicare Crossover Claims

Total payments for services from Medicare and Medicaid rendered to Medicare patients, who are also eligible for Medicaid, shall not exceed the Medicaid payment for the same services.

Notwithstanding the schedule for services and payments basis in this section, increases in Medicaid rates for physicians, dentists, chiropractors, optometrists, podiatrists, home health services, clinic services, ambulance services, EPSDT screens, hearing aid dispensing fees, rural health clinics, family planning, independent laboratory and X-ray services, ambulatory surgical centers, and mental health clinics are frozen at the June 30, 1981 payment levels.

Limitations on services contained in this section shall become effective December 1, 1981, unless otherwise specified, and shall apply to all services rendered after November 30, 1981. In cases where specific limitations exist on the number of services that may be provided for a full year, recipients shall be limited to seven-twelfths (7/12) of that number for the remainder of the 1981-82 fiscal year.

Reimbursement is available for up to 18 visits per recipient per year to anyone or combination of the following: physicians, clinics, hospital outpatient, optometrists, chiropractors, and podiatrists. Prenatal services, EPSDT screens and emergency rooms are exempt from the visit limitations contained in this paragraph.

Payment basis terms of allowable, usual, reasonable, and customary are definitive terms prescribed by federal regulations governing the Medicaid program. Any changes in services or basis of payment in the Medicaid program must be approved by the Director of the Budget and the Advisory Budget Commission.

(2) Allocation of Nonfederal Cost of Medicaid.—The State shall pay eight-five percent (85%) and the counties shall pay fifteen percent (15%) of the nonfederal costs of all applicable services listed in this section, except that the State shall pay sixty-five percent (65%) and the counties shall pay thirty-five percent (35%) of the nonfederal costs of those Skilled Nursing Facilities and Intermediate Care Facilities services which are not owned by the State.

(3) Co-payment for Medicaid Services.—Medicaid recipients shall pay the maximum co-payment as allowed by federal regulations.

No co-payment is required for EPSDT-related services, family planning services, State hospital services, or services subject to Medicare Part A or Part B coverage.

Co-payment for inpatient hospital services is limited to the first 30 days of each stay.

(4) Prepaid Health Care for Medicaid Recipients.—The Department of Human Resources, Division of Medical Assistance is authorized, subject to approval of a change in the State Medicaid Plan by the Director of the Budget and the Advisory Budget Commission, to purchase health care services on a prepaid basis.
(5) Medicaid and Aid to Families With Dependent Children Income Eligibility Standards.—Maximum net family annual income eligibility standards for Medicaid, Aid to Families With Dependent Children and the Standard of Need for Aid to Families With Dependent Children shall be as follows:

<table>
<thead>
<tr>
<th>Family Size</th>
<th>Standard of Need</th>
<th>AFDC Payment Level</th>
<th>Medically Needy</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$3,048</td>
<td>$1,524</td>
<td>$2,100</td>
</tr>
<tr>
<td>2</td>
<td>4,008</td>
<td>2,004</td>
<td>2,700</td>
</tr>
<tr>
<td>3</td>
<td>4,608</td>
<td>2,304</td>
<td>3,100</td>
</tr>
<tr>
<td>4</td>
<td>5,040</td>
<td>2,520</td>
<td>3,400</td>
</tr>
<tr>
<td>5</td>
<td>5,520</td>
<td>2,760</td>
<td>3,700</td>
</tr>
<tr>
<td>6</td>
<td>5,952</td>
<td>2,976</td>
<td>4,000</td>
</tr>
<tr>
<td>7</td>
<td>6,384</td>
<td>3,192</td>
<td>4,300</td>
</tr>
<tr>
<td>8</td>
<td>6,648</td>
<td>3,324</td>
<td>4,500</td>
</tr>
</tbody>
</table>

*Aid to Families with Dependent Children (AFDC); Aid to the Aged (AA); Aid to the Blind (AB); and Aid to the Disabled (AD).

The payment level for Aid to Families With Dependent Children shall be fifty percent (50%) of the standard of need. The standard of need shown in column one is effective October 1, 1981.

These standards may be changed with the approval of the Director of the Budget and the Advisory Budget Commission.

(6) Spouse Responsibility.—Rules governing the income and financial resources of the spouse of a person who is admitted as a long-term care patient in a certified public or private intermediate care or skilled nursing facility shall be consistent with federal regulations and with the June 25, 1981, decision of the U. S. Supreme Court in the Grey Panthers vs. Secretary, Department of Health and Human Services.

(7) Dental Coverage Limits.—Dental services will be provided on a restricted basis in accordance with regulations developed by the department. Funds for dental services shall be disbursed only with prior approval by the Department of Human Resources, Division of Medical Assistance as required by this paragraph. No prior approval shall be required for emergency services or routine services. Routine services are defined as examinations, X-rays, prophylaxis, nonsurgical tooth extractions, amalgam fillings, and fluoride treatments. Prior approval shall be required for all other services and for routine services performed more than two times during a consecutive 12-month period. The Department of Human Resources shall establish rules and regulations, as provided by the Administrative Procedures Act, to implement this subsection.

(8) Dispensing of Generic Drugs.—Notwithstanding Part 1A of Article 4 of Chapter 90 of the General Statutes, under the Medicaid Assistance program (Title XIX of the Social Security Act) a prescription order for a drug designated by a trade or brand name shall be considered to be an order for the drug by its established or generic name, except when the prescriber personally indicates, either orally or in his own handwriting on the prescription order, “dispense as written” or words of similar meaning.

As used in this paragraph “brand name” means the proprietary name the manufacturer places upon a drug product or on its container, label or wrapping...
at the time of packaging; and "established name" shall have the same meaning as assigned that term by the Federal Food, Drug and Cosmetic Act as amended, Title 21 U.S. C. 301 et seq.

(9) Additional Cost Containment Measures.—The Department of Human Resources, Division of Medical Assistance shall develop plans by May 1, 1982, for the following:
   - a statewide fee schedule for physicians, dentists, chiropractors, optometrists, podiatrists and clinics;
   - prepaid contracts for medical services;
   - competitive bidding for payment of laboratory services and medical devices;
   - home and community-based care.

In establishing fee schedules the department shall consult with the providers of such services and their respective professional associations. Notwithstanding any other provision of law, any person or organization participating in a determination or recommendation to the Department of Human Resources concerning the establishment of Medicaid fee schedules shall not be subject to prosecution or liability or damages on account of conduct relevant to the determination of such fee schedules.


Sec. 23. (a) Legislative findings.—The General Assembly finds:

(1) That there is a need in North Carolina to provide appropriate treatment and education programs to children under the age of 18 who suffer from emotional, mental, or neurological handicaps accompanied by violent or assaultive behavior;

(2) That children with these behaviors have been identified as a class in the case of Willie M., et al. vs. Hunt, et al.;

(3) That these children have a need for a variety of services that may include but are not limited to residential treatment programs, educational programs, and independent living arrangements;

(4) That the plans of the Department of Human Resources and the Department of Public Instruction for children in the Willie M. class indicate that not all counties in the State have the same readiness to proceed with providing the full range of services needed by these children;

(5) That an attempt to provide immediately the full range of services needed by these children would result in ill-conceived, poorly executed programs at great public expense;

(6) That, because of multiple practical difficulties which will undoubtedly be encountered before services can be instituted statewide, it is necessary for the General Assembly to establish a schedule of priorities for allocating funds to local area mental health programs and local educational agencies.

(b) Funds for Division of Mental Health, Mental Retardation, and Substance Abuse.—Funds in the amount of three million eight hundred seventy-five thousand four hundred forty-seven dollars ($3,875,447) are appropriated in Section 2 of this act for the 1981-82 fiscal year to the Department of Human Resources, Division of Mental Health, Mental Retardation, and Substance Abuse for the purpose of providing appropriate treatment for members of the class identified in Willie M., et al. vs. Hunt, et al. These funds shall be expended through area mental health, mental retardation,
and substance abuse programs in accordance with the schedule of priorities submitted by the Department of Human Resources to the General Assembly in October 1981.

(c) Funds for Division of Youth Services.—Funds in the amount of one hundred thirty-nine thousand twenty-eight dollars ($139,028) are appropriated in Section 2 of this act for the 1981-82 fiscal year to the Department of Human Resources, Division of Youth Services, to serve members of the class identified in Willie M., et al. vs. Hunt, et al. who are committed to the Division of Youth Services. These funds shall be expended by the Division of Youth Services for the developmental disabilities program at C. A. Dillon School.

(d) Priority for Residential Programs.—Children who are members of the Willie M. class and are in counties that do not receive funds in the 1981-83 biennium and that cannot currently provide the full range of services needed by these children shall receive priority in appropriate programs operated by the Department of Human Resources. The Department of Human Resources shall promulgate rules and regulations to implement this subsection by October 1, 1981.

(e) Limitation on expenditure of funds.—The funds referred to in subsections (b) and (c) may not be used to serve children not in the Willie M. class if any class member within the zone described in the Department of Human Resources, Division of Mental Health, Mental Retardation and Substance Abuse, schedule of priorities remains unserved. No funds shall be expended for any program that does not serve members of the class.

(f) Funds for Department of Public Education.—Funds in the amount of five hundred thousand nine hundred twenty dollars ($500,920) are appropriated in Section 2 of this act for the 1981-82 fiscal year to the Department of Public Education to establish a supplemental reserve fund to serve only members of the class identified in Willie M., et al. vs. Hunt, et al. These funds shall be allocated by the State Board of Education to those local education agencies that coincide with those area mental health, mental retardation, and substance abuse centers that receive funds under the Department of Human Resources, Division of Mental Health, Mental Retardation and Substance Abuse, in the schedule of priorities submitted to the General Assembly in October 1981. These funds shall be allocated by the State Board of Education to the local education agencies to serve those class members who were not included in the regular average daily membership and the census of children with special needs, and to provide the additional program costs which exceed the per pupil allocation from the State Public School Fund and other State and federal funds for children with special needs.

(g) Use of unexpended funds.—The Director of the Budget, with the approval of the Joint Legislative Commission on Governmental Operations, may use any unexpended funds allocated in this section to fund additional treatment and education programs for class members in accordance with the schedule of priorities found in the Department of Human Resources, Division of Mental Health, Mental Retardation and Substance Abuse, Plan I.

(h) Reporting requirements.—The Department of Human Resources and the Department of Public Education shall submit a joint report to the General Assembly on the progress achieved in serving members of the Willie M. class. The report shall include, but not be limited to the following unduplicated data for each county: (i) the number of children nominated for the Willie M. class;
(ii) the number of children actually identified as members of the class in each county; (iii) the number of children served as members of the class in each county; (iv) the number of children that remains unserved; (v) the types and locations of treatment and education services provided to class members; (vi) the cost of services, by type, to members of the class; (vii) information on the impact of treatment and education services on members of the class; and (viii) the readiness of other areas of the State to proceed with providing services. The Departments shall report to the June 1982 Session of the General Assembly and, by October 1, 1982, to the General Assembly and the Governor.

(i) Before funds are expended under the schedule of priorities submitted to the Second Session of the 1981 General Assembly for members of the Willie M. Class, plans must be submitted for review and approval by the Joint Legislative Commission on Governmental Operations.

(j) Section 29.8 of Chapter 859 of the 1981 Session Laws is repealed.

(k) This section does not affect funds appropriated in Chapter 859 of the 1981 Session laws for the 1982-83 fiscal year relating to the Willie M. case.

—CERTIFICATE OF NEED REVISIONS

Sec. 24. G.S. 131-176(16a) is amended by deleting the words “One Hundred and Fifty Thousand Dollars ($150,000)” each time they appear and inserting in lieu thereof the words “Four Hundred Thousand Dollars ($400,000)”.

Sec. 25. G.S. 131-176(17b) is amended by deleting the words “One Hundred and Fifty Thousand Dollars ($150,000)” each time they appear and inserting in lieu thereof the words “Six Hundred Thousand Dollars ($600,000)”.

Sec. 26. G.S. 131-176(17f) is amended by deleting the words “Seventy-Five Thousand Dollars ($75,000)” each time they appear and inserting in lieu thereof the words “Two Hundred Fifty Thousand Dollars ($250,000)”.

Sec. 27. G.S. 131-176(17i) is amended by deleting the words “G.S. 131-176(15)” and inserting in lieu thereof the words “G.S. 131-176(17)”.

Sec. 28. G.S. 131-176(17) is amended by adding a new part m to read as follows:

“m. any conversion of nonhealth care facility beds to health care facility beds, regardless of whether a capital expenditure is associated with the conversion. A bed is a nonhealth care facility bed if a facility that contained only that type of bed would not be a health care facility. A bed is a health care facility bed if a facility that contained only that type of bed would be a health care facility.”

Sec. 29. References in this act to Chapter 131 of the General Statutes are as amended by Chapter 651, Session Laws of 1981.

—CERTIFICATE OF NEED/CONSTRUCTION CRITERIA

Sec. 30. (a) Section 4 of Chapter 1182, Session Laws of 1977 (Second Session 1978) is amended by adding immediately after the third paragraph the following new language:

“Provided, that notwithstanding the previous two paragraphs, this act shall apply to any project which is either:

(1) described in either of those two paragraphs; or

(2) exempt from this act because construction had commenced prior to June 16, 1978;

unless in either case described above, prior to July 1, 1983:
(1) sufficient land has been acquired for the project;
(2) all necessary building permits and zoning or subdivision approval have been obtained;
(3) a construction contract has been awarded and payments have been made on the construction contract; and
(4) either foundation walls for the project have been raised above grade level, or if a building or buildings existed on that site on January 1, 1981, a contract has been signed to raze them and total partial demolition has taken place.”

(b) This section does not apply to any project required to be licensed under Article 13A of Chapter 131 of the General Statutes.

(c) The provisions of this section are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair the remaining provisions.

—CERTIFICATE OF NEED/BED CAPACITY LIMITATIONS

Sec. 31. (a) Findings of Fact.—The General Assembly of North Carolina makes the following findings:

(1) That additional time is needed to plan and develop community alternatives to institutional care;

(2) That time is needed to assess the impact of recent federal statutory changes contained in Omnibus Budget Reconciliation Act of 1981 on long-term care services in North Carolina;

(b) No certificate of need shall be granted after January 1, 1982, under Article 18 of Chapter 131 of the General Statutes (The North Carolina Health Planning and Resource Development Act of 1978, as amended) for any additional bed capacity or new bed capacity for any skilled nursing facility, proposed skilled nursing facility, intermediate care facility, or proposed intermediate care facility, (as defined in G.S. 131-176), until all skilled nursing facility bed capacity and all intermediate care facility bed capacity authorized by any certificate of need or authorized under Section 1122 of the Social Security Act (42 U.S.C.S. 1320a-1.) has been constructed, and until the total of all such beds constructed subsequent to the effective date of this section are at seventy-five percent (75%) occupancy.

(c) Notwithstanding any provision of Article 18 of Chapter 131 of the General Statutes, no certificate of need for bed capacity for a skilled nursing facility or intermediate care facility, which beds were not constructed on or before the effective date of this section, may be transferred or sold (other than by devise or by operation of law upon death) until the conditions of subsection (b) of this section have been satisfied.

(d) The Department of Human Resources may issue regulations to implement this section.

(e) This section shall not apply to certificates of need for intermediate care facilities for the mentally retarded.

(f) This section does not apply to conversion of home for aged beds to intermediate care facility or skilled nursing facility beds in a continuing care for the elderly and infirm facility as defined in G.S. 131A-3 as amended by Chapter 867, Session Laws of 1981, if the conversion is in pursuance to the policy in the State Medical Facilities Plan.

—PHYSICAL FITNESS/IN-KIND MATCH

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Sec. 32. Chapter 634 of the 1979 Session Laws is amended by rewriting Section 2 of that Chapter to read:

"Sec. 2. The Department of Human Resources may implement the provisions of this act by using funds already appropriated to it for an in-kind match for federal or other non-State funds. Nothing herein contained obligates the General Assembly to make additional appropriations for this purpose."

—SALE OF REAL PROPERTY/BUTNER

Sec. 33. Effective July 1, 1981, Section 23.4 of Chapter 859 of the 1981 Session Laws is amended to read:

"Sec. 23.4. A new sentence is added to the end of G.S. 146-30 to read as follows:

'Provided further, the net proceeds derived from the sale of any portion of the land in or around the unincorporated area known as Butner on or after July 1, 1980, shall be deposited with the State Treasurer in a capital improvement account to the credit of the Hospital to bring those streets in the unincorporated area known as Butner not on the State highway system up to standards adequate for acceptance on the system, according to a plan adopted by the Department of Administration, Office of State Budget and Management and the Advisory Budget Commission, with the approval of the Board of County Commissioners of Granville County and to build industrial access roads to industries on the Butner lands.'"

—SENIOR CITIZENS' CENTERS/STATE AID

Sec. 34. Of the funds appropriated to the Department of Human Resources, Administration and Support, one hundred sixty-five thousand dollars ($165,000) shall be used by the Division on Aging to provide one time grants to Senior Citizens' Centers. These grants shall be limited to six thousand dollars ($6,000) per center, shall be considered on a first come first serve basis, and shall be matched dollar for dollar with local funds.

—LIMITATION ON TRANSFER OF ABORTION FUNDS

Sec. 35. No funds in excess of the amount appropriated under this act may be expended for the purpose of performing abortions during the 1981-82 fiscal year.

—EQUALIZE SALARIES OF CERTAIN TEACHERS

Sec. 36. Effective January 1, 1982, the Department of Human Resources is directed to implement the salary schedule that was adopted by the State Personnel Commission pursuant to the provisions of Section 19.2 of Chapter 1137 of the 1979 Session Laws. This salary schedule equalizes salaries between certificated teaching positions at the North Carolina Schools for the Deaf and the Governor Morehead School and certificated teachers in the public schools under the Department of Public Instruction. There is appropriated from the General Fund to the Department of Human Resources the sum of one hundred nine thousand dollars ($109,000) for the 1981-82 fiscal year to achieve this purpose.

—DEPARTMENT OF HUMAN RESOURCES/SPECIAL AID TO COUNTIES

Sec. 37. Funds in the amount of two million dollars ($2,000,000) for fiscal year 1981-82 are appropriated in Section 2 of this act to the Department of Human Resources as special aid to counties. These funds shall be allocated by the Department of Human Resources in equal quarterly amounts based on each county's population as a percentage of the total State population, utilizing the
most recent estimates of county populations of the Office of State Budget and Management. These funds shall be expended by the county commissioners for the administration of local departments of public health or social services.

—COMMUNITY PROGRAMS/DEVELOPMENTALLY DISABLED

Sec. 38. Funds in the amount of seven hundred fifty thousand dollars ($750,000) are appropriated in Section 2 of this act to the Department of Human Resources, Division of Mental Health, Mental Retardation and Substance Abuse for the increased costs in the following community programs for the developmentally disabled: early childhood intervention, respite, group homes for children and adults, developmental day subsidy, specialized community residential subsidy, specialized foster care subsidy, apartment living, and mentally retarded/behaviorally disordered group homes.

PART VIII.—SPECIAL PROVISIONS/PUBLIC SCHOOLS

—TECHNICAL CORRECTION

Sec. 39. On and after July 1, 1981, Section 2 of Chapter 538 of the 1981 Session Laws is amended by rewriting the first clause up to the colon to read:

"Sec. 2. G.S. 115C-325, as enacted by Chapter 423 of the 1981 Session Laws, is amended by adding a new subsection (II) to read"; and by deleting the citation "(g)" and substituting "(f)".

Sec. 40. On and after July 1, 1981, Section 3 of Chapter 538 of the 1981 Session Laws is amended by (1) deleting "(o)" wherever it appears and substituting "(n)"; (2) deleting "(l) or (m)" and substituting "(k) or (l)".

—TECHNICAL CORRECTION

Sec. 41. Effective July 1, 1981, Section 29.12 of Chapter 859 of the 1981 Session Laws is amended by inserting after the words "test scores" the words "of teachers".

—STEP NINE INCREMENT/CERTAIN SCHOOL EMPLOYEES

Sec. 42. Effective January 1, 1982, the Director of the Budget may transfer from appropriations for this purpose in Section 2 of this act, funds necessary to add a ninth increment step for State-paid certified and noncertified school personnel, except teachers and school bus drivers; provided that as to certified school personnel, this section shall be implemented upon a study and report of the Governmental Operations Committee to the 1983 General Assembly containing its recommendations as to the entire salary schedule for educators, including whether this section should be continued to be implemented and, if so, whether it should also be made to apply to teachers. Ten-month employees are not eligible for this increment until the beginning of the sixth month of their employment.

PART IX.—SPECIAL PROVISIONS/COMMUNITY COLLEGES

—NO COMMUNITY COLLEGE TUITION AND FEES FOR CERTAIN PEOPLE

Sec. 43. G.S. 115D-5(b) is amended in the third sentence by adding before the phrase "and prison inmates", the language "clients of Sheltered Workshops, clients of Adult Developmental Activity Programs".

—HEARING IMPAIRED FUNDS TO C.P.C.C.

Sec. 44. There is appropriated from the General Fund to the Department of Community Colleges for Central Piedmont Community College for the fiscal year 1981-82 the sum of sixty-four thousand dollars ($64,000) for the continuation of programs assisting the hearing impaired students to continue their education.
PART X.—SPECIAL PROVISIONS/NATURAL RESOURCES AND COMMUNITY DEVELOPMENT
—LIMITATIONS ON EXPENDITURES FROM THE FOREST DEVELOPMENT FUND

Sec. 45. G.S. 113A-183(c) is amended to read as follows:
“(c) In any fiscal year, expenditures from the Forest Development Fund shall be limited to four times the amount of the general fund appropriation for that year.”

—SEED EXTRACTORY BUILDING/CLARIDGE NURSERY

Sec. 46. The balance of funds remaining in the Department of Natural Resources and Community Development 1979 capital improvement project budget for Replacement of Facilities at Claridge Nursery may be used for the construction of a Seed Extractory Building at Claridge Nursery.

—MODIFY GROUND ABSORPTION SEWAGE TREATMENT AND DISPOSAL ACT OF 1981

Sec. 47. The first paragraph of G.S. 130-166.25(b) as it appears in Chapter 949 of the 1981 Session Laws is repealed.

PART XI.—SPECIAL PROVISIONS/Crime Control
—FUNDS FOR DEFERRED PROSECUTION PROGRAM

Sec. 48. From the restrictive reserve fund established by Section 20 of Chapter 964 of the 1981 Session Laws, the Joint Legislative Committee on Governmental Operations may allocate to the Department of Crime Control and Public Safety up to one hundred fifty thousand dollars ($150,000) for the 1981-82 fiscal year to implement the funding of the deferred prosecution, community service restitution and volunteer program for youthful and adult offenders authorized by Chapter 929 of the 1981 Session Laws.

—JURISDICTION AUTHORIZATION

Sec. 49. G.S. 122-98(b) is rewritten to read as follows:
“(b) After taking the oath of office required for law enforcement officers, the special police officers authorized by this section shall have the authority of deputy sheriffs of Durham and Granville counties in those counties respectively. Within the territorial jurisdiction stated in subsection (a), the special police officers shall have the primary responsibility to enforce the laws of North Carolina and any ordinance or regulation applicable to that territory adopted under authority of this Article or under G.S. 122-16 or G.S. 122-16.1 or under the authority granted any other agency of the State and shall also have the powers set forth for firemen in Articles 3, 5 and 6 of Chapter 69. All law enforcement, fire fighting, public safety and other emergency vehicles of the Department of Crime Control and Public Safety shall be maintained and controlled by the State Highway Patrol Division of that Department. Any civil or criminal process to be served on any person confined at any State facility within the territorial jurisdiction stated in subsection (a) shall be forwarded by the sheriff of the county in which the process originated to the Chief of the Butner Public Safety Department. Such process shall be served by a special police officer authorized by this section. The Secretary of Crime Control and Public Safety shall collect from the Clerk of Court of the county in which the process originated the uniform fee collected for such process under Chapter 7A and transmit such sums collected to the General Fund.”

—PAY RANGE INCREASE/HIGHWAY PATROL

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Sec. 50. Effective January 1, 1982, the pay schedule established by the Division of Personnel of the Department of Administration for members of the Highway Patrol up to and including the rank of first sergeant is changed by increasing the salary grade at each level by two grades. The Director of the Budget may transfer from appropriations for this purpose in Section 3 of this act, funds necessary to provide for this increase.

Sec. 51. Effective January 1, 1982, the pay schedule established by the Division of Personnel of the Department of Administration for officers of the State Highway Patrol above the rank of first sergeant is changed by increasing the salary grade at each level by one grade. The Director of the Budget may transfer from appropriations for this purpose in Section 3 of this act funds necessary to provide for this increase.

—PAY RANGE INCREASE/ALE AGENTS

Sec. 52. Effective January 1, 1982, the pay schedule for Alcohol Law Enforcement agents is changed by increasing the salary grade at each level by one grade. The Director of the Budget may transfer from appropriations for this purpose in Section 2 of this act funds necessary to provide for this increase.

Sec. 52.1. Effective January 1, 1982, the pay schedule established by the Division of Personnel of the Department of Administration for law enforcement officers in the Division of Motor Vehicles at salary grades of 65 or lower is changed by increasing the salary grade at each level by two grades. The Director of the Budget may transfer from appropriations for this purpose in the Division of Motor Vehicles in Section 3 of this act funds necessary to provide for this increase.

PART XII.—SPECIAL PROVISIONS/TRANSPORTATION

—REPEAL GASOLINE TAX AUDIT TRANSFER

Sec. 53. Effective November 15, 1981, Sections 77-83 of Chapter 859 of the 1981 Session Laws are repealed. Provided that the Tax Audit Section of the Division of Motor Vehicles shall not exceed nine positions and that duplication of audits by the Tax Audit Section in the Division of Motor Vehicles and the Gasoline Tax Division in the Department of Revenue be eliminated.

—OVER AXLE WEIGHT PENALTIES FOR CERTAIN VEHICLES

Sec. 53.1. Effective January 1, 1982, G.S. 20-118(5) is amended by inserting the following proviso in line 10 immediately after the word “pounds.” and immediately before the word “Said”:

“Provided, however, vehicles transporting meats and row crop products originating from a farm, or forest products originating from a farm or from woodlands to first market, shall pay to the Division a penalty for each pound of weight on such axle in excess of the maximum weight allowed under subdivisions (3) and (4) in accordance with the following schedule: for the first 1,000 pounds or any part thereof, two cents (2¢) per pound; for the next 1,000 pounds or any part thereof, three cents (3¢) per pound; and for each additional pound, five cents (5¢) per pound.”

Effective January 1, 1982, G.S. 20-118 is amended by adding the following proviso at the end of the second unnumbered paragraph following subdivision (12):

“Provided, however, for each violation of the gross weight limitation for the vehicle or vehicle and load when transporting meats and row crop products originating from a farm, or forest products originating from a farm or from woodlands to first market, the owner of the vehicle shall pay the penalty
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according to the following schedule: for the first 2,000 pounds or any part thereof, one cent (1¢) per pound; for the next 3,000 pounds or any part thereof, two cents (2¢) per pound; for each pound in excess of 5,000 pounds, five cents (5¢) per pound."

—ADMINISTRATION OF CERTAIN FUNDS FOR BUTNER

Sec. 54. Effective July 1, 1981, the last sentence of Section 9.2 of Chapter 859 of the 1981 Session Laws is amended to read:

"Funds allocated to the area for this purpose shall be administered by the member of the State Board of Transportation administering the Highway Fund in Granville County."

PART XIII.—SPECIAL PROVISIONS/GENERAL ASSEMBLY

—FUNDS FOR RENEWED ADMINISTRATIVE RULES REVIEW COMMITTEE AND TECHNICAL AMENDMENT

Sec. 55. (a) There is appropriated from the General Fund to the Legislative Research Commission's Administrative Rules Review Committee the sum of seventy thousand dollars ($70,000) for the 1981-82 fiscal year.

(b) G.S. 120-30.34 is rewritten to read as follows:

"§ 120-30.34. Temporary rules.—Rules adopted in accordance with the procedures in G.S. 150A-13 may be reviewed by the Committee but are not subject to objection and delay as provided in G.S. 120-30.28. The Committee may review the reasons given for the adoption of a temporary rule."

—INSURANCE STUDY AND PROVISION CHANGES

Sec. 56. G.S. 58-387 and G.S. 58-404, as found in 1981 Session Laws Chapter 846, are amended by substituting the word, "July" for the word, "January".

Sec. 57. The Legislative Research Commission or any study committee thereof, in the discharge of its study of insurance under Section 1(10) of Resolution 61 of the 1981 General Assembly (H.J.R. 1292), may secure information and data under the provisions of G.S. 120-19. The powers contained in the provisions of G.S. 120-19.1 through G.S. 120-19.4 shall apply to the proceedings of the Commission or any study committee thereof in the discharge of said study. The Commission or any study committee thereof, while in the discharge of said study, is authorized to hold executive sessions in accordance with G.S. 143-318.11(b) as though it were a committee of the General Assembly.

Sec. 58. G.S. 58-262.8(3), as found in 1981 Session Laws Chapter 503, is amended by rewriting the first sentence to read:

"(3) 'Medicare supplement policy' means a group or individual policy of accident and sickness insurance or a subscriber contract of a hospital, medical, and/or dental service corporation organized under General Statutes Chapter 57, which policy or contract is advertised, marketed, or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical, and surgical expenses of persons eligible for Medicare by reason of age."

—PRINTING OF RESOLUTIONS AND JOURNALS OF 1981 EXTRA SESSION

Sec. 59. The Resolutions of the Extra Session of 1981 shall be printed and published in the volume of the 1981 Regular Session Laws in which the laws of the Fall 1981 Session are printed and published.

Sec. 60. The Journals of the House and Senate of the Extra Session of 1981 shall be printed and published in the same volumes as the Journals of the Fall 1981 Session.

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—UTILITY REVIEW COMMITTEE TECHNICAL AMENDMENT

Sec. 61. Section 2 of Resolution 100 of the 1975 Session (Senate Joint Resolution 549) and Sections 1 through 9 of Resolution 78 of the 1979 Session (House Joint Resolution 1377) are hereby incorporated by reference in this act as if set forth herein and are ratified and enacted into law and shall have the force and effect of law. All actions made under the authority of Resolution 100 of the 1975 Session and of Resolution 78 of the 1979 Session or made by the Utility Review Committee under the authority of other legislation are ratified.

PART XIV.—SPECIAL PROVISIONS/BLOCK GRANTS

Sec. 62. Notwithstanding G.S. 143-16.1, all federal block grant funds received by the State between August 31, 1981, and July 1, 1983, shall be received by the General Assembly. This section is effective October 1, 1981.

Sec. 63. A new Article is added to Chapter 120 of the General Statutes to read:

"ARTICLE 13A.

"Joint Legislative Committee to Review Federal

Block Grant Funds.

"§ 120-80. Committee established; purpose.—There is established the Joint Legislative Committee to Review Federal Block Grant Funds. The Committee shall review acceptance and use of all federal block grant funds received by the State between August 31, 1981, and July 1, 1983. For purposes of this act, 'block grant' means a block grant under the Omnibus Budget Reconciliation Act of 1981.

"§ 120-81. Membership.—(a) The Committee consists of 12 members as follows:

(1) Six members of the House of Representatives appointed by the Speaker;
(2) Six members of the Senate appointed by the Lieutenant Governor.

Initial appointments shall be made by October 10, 1981, and those appointees shall serve until July 1, 1983. Members may continue to serve despite expiration of a term in the General Assembly, whether or not the member has been re-elected, but resignation or removal from the General Assembly constitutes resignation or removal from the Committee. A member continues to serve until his successor is appointed. Vacancies shall be filled within 30 days by the original appointing authority.

"§ 120-82. Organization.—(a) The Speaker of the House of Representatives and the Lieutenant Governor shall designate cochairmen of the Committee. Meetings shall be called by either of the cochairmen, and callings are subject to the Rules of the House of Representatives and the Senate.

(b) All members, including the cochairmen have the right to vote. A quorum is seven members. No action may be taken except by a majority vote, with at least seven members present and voting. House and Senate members may not vote separately; all voting is joint. If neither cochairman is present but there is a quorum, the members may elect a temporary chairman and hold a meeting.

(c) Members receive subsistence and travel as provided in G.S. 120-3.1. The Committee is funded by the Legislative Services Commission.

(d) The Committee may request professional and clerical assistance from the Legislative Services Commission.

"§ 120-83. Powers.—The Committee may review all aspects of the acceptance and use of federal block grant funds. The Committee may also make

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recommendations to the General Assembly for legislation relating to federal block grant funds.

"§120-84. Review procedure.—(a) After federal block grant funds have been accepted by the General Assembly, the Director of the Budget shall propose administration and use of those funds. All proposals shall be submitted to the Committee, or to the General Assembly if it is in session, for its prior approval.

(b) None of the following actions with regard to State use of federal block grant funds may be taken without the prior approval of the Committee or of the General Assembly if it is in session:

(1) acceptance of federal block grants,
(2) determination of pro rata reduction procedures and amounts for State programs,
(3) determination of distribution formulas,
(4) transfer of funds between block grants,
(5) intradepartmental transfer of block grant funds,
(6) encumbrance of anticipated block grant funds,
(7) adoption of departmental rules relating to federal block grant funds,
(8) contracting between State departments involving block grant funds, and
(9) any other final action affecting acceptance or use of federal block grant funds.

The Committee shall take action within 40 days of receiving a request for approval from the Office of State Budget and Management."

Sec. 64. The Governor shall designate the appropriate office, agency, or department to administer each block grant authorized by the Omnibus Budget Reconciliation Act of 1981.

Sec. 65. Each office, agency, or department which administers a block grant authorized by the Omnibus Budget Reconciliation Act of 1981 shall submit reports to the General Assembly no later than May 10, 1982, on their administration of each block grant for which each is responsible.

Sec. 66. (a) The appropriate office, agency, or department designated by the Governor may receive, allocate and distribute amounts allocated under Title I of the Housing and Community Development Act of 1974 as amended by the Housing and Community Development Amendments of 1981, Part 1 of Subtitle A of Title 3 of Pub. L. No. 97-35, 95 Stat. 384 to 398.

(b) That office, agency, or department may allocate and distribute funds under the authority of this section in accordance with rules and regulations relating to analogous federal grants for fiscal year 1980-81 until new rules and regulations are promulgated under the authority of this section.

(c) That office, agency, or department may issue rules and regulations to implement the Housing and Community Development Amendments of 1981.

(d) That office, agency, or department may engage in planning for community development activities.

Sec. 67. The appropriate office, agency, or department designated by the Governor may disburse money and otherwise administer the Community Services Block Grant Program. Funds available under the program shall be disbursed in a manner consistent with the purposes and requirements set out in the Community Services Block Grant Act. Until new rules and regulations are promulgated under authority of the Block Grant, that office, agency, or department may disburse money and otherwise administer the Block Grant.
under rules and regulations relating to analogous federal grants for fiscal year 1980-81, in a manner not inconsistent with the Community Services Block Grant Act. This section is effective October 1, 1981.

Sec. 68. The Director of the Budget may, with the prior approval of the Joint Legislative Committee to Review Federal Block Grant Funds, or of the General Assembly if it is in session, transfer funds from the Community Services Block Grant Program for the purposes and subject to the restrictions set forth in the Community Services Block Grant Act, Pub. L. No. 97-35, § 675(c)(5), 95 Stat. 515 (1981).

Sec. 69. Prior to the expiration of the first fiscal year in which the State receives funds under the Community Services Block Grant Program, the General Assembly shall conduct public hearings on the proposed use and distribution of federal block grant funds to be provided for the program during the subsequent fiscal year. The Lieutenant Governor and the Speaker of the House of Representatives shall appoint or designate a committee to hold the hearings. That committee shall report to the Joint Legislative Committee to Review Federal Block Grant Funds, or to the General Assembly if it is in session.

Sec. 70. Part 26 of Article 7 of Chapter 143B of the General Statutes is repealed.

Sec. 71. The appropriate office, agency, or department designated by the Governor may disburse money and otherwise administer the Social Services Block Grant under rules and regulations relating to analogous federal grants for fiscal year 1980-81 until new rules and regulations are promulgated under the authority of the Block Grant. This section is effective October 1, 1981.

Sec. 72. The appropriate office, agency, or department designated by the Governor, or another department with which it contracts, may establish and adopt rules and regulations specifically to administer that portion of the Low Income Energy Assistance Block Grant which provides that not more than fifteen percent (15%) of available funds may be used for low-cost residential weatherization or other energy-related home repairs for low income households.

Sec. 73. The appropriate office, agency, or department designated by the Governor may disburse money and otherwise administer the Alcohol, Drug Abuse and Mental Health Block Grant under rules and regulations relating to analogous federal grants for fiscal year 1980-81 until new rules and regulations are promulgated under the authority of the new Block Grant. This section is effective October 1, 1981.

Sec. 74. The appropriate office, agency, or department designated by the Governor may disburse money and otherwise administer the Preventive Health and Health Services Block Grant under rules and regulations relating to analogous federal grants for fiscal year 1980-81 until new rules and regulations are promulgated under the authority of the new Block Grant. This section is effective October 1, 1981.

Sec. 75. The appropriate office, agency, or department designated by the Governor, or another department with which it contracts, may establish and adopt rules and regulations specifically to administer that portion of the Preventive Health and Health Services Block Grant that provides services pursuant to the Mental Health Systems Act of 1980 § 602, 42 U.S.C. § 9512 (1981), as it provided on September 30, 1981.
Sec. 76. The appropriate office, agency, or department designated by the Governor may disburse money and otherwise administer the Maternal and Child Health Services Block Grant under rules and regulations relating to analogous federal grants for fiscal year 1980-81 until new rules and regulations are promulgated under the authority of the new Block Grant. This section is effective October 1, 1981.

Sec. 77. In disbursing funds from any federal block grant during the 1981-82 and 1982-83 fiscal years, the State shall require local governmental units to match the funds at the same ratio as they were required to match analogous funds during the 1980-81 fiscal year. Affected local governmental units may expend local revenues, including ad valorem taxes, to meet this matching requirement. This section is effective October 1, 1981.

PART XV.—SPECIAL PROVISIONS/GENERAL GOVERNMENT

—TECHNICAL CORRECTIONS

Sec. 78. Effective January 1, 1982, G.S. 115C-517 is amended by deleting the reference “Article 2, Chapter 40 of the General Statutes” and substituting the reference “Chapter 40A of the General Statutes”.

—ENABLING LEGISLATION REPEAL

Sec. 79. Effective May 4, 1981, Chapter 317 of the 1981 Session Laws is repealed.

—COMPENSATION OF SAFETY AND HEALTH REVIEW BOARD MEMBERS

Sec. 80. Notwithstanding the provisions of G.S. 95-135(c), the Director of the Budget may transfer from within the budget to the Department of Labor funds necessary to compensate members of the Safety and Health Review Board in the amount of two hundred dollars ($200.00) per day per member.

—DEBT SERVICE/INTEREST PAYMENT

Sec. 81. Funds remaining in the General Revenue Sharing Trust Fund and in the Anti-Recession Trust Fund are appropriated for general fund debt service - interest payment.

—RESTRICTION ON TRANSFERS OF FUNDS

Sec. 82. G.S. 143-23 is amended by designating the present language as subsection (a) and by adding a new subsection (b) to read:

“(b) Notwithstanding subsection (a), no requested transfer or change from a program line item may be made if the total amount transferred from that line item during the fiscal year would be more than ten percent (10%) of the amount appropriated for that program line item for that fiscal year, unless the Joint Legislative Commission on Governmental Operations has given its prior approval for that transfer. This restriction applies to all State departments with a total General Fund appropriation of at least fifty million dollars ($50,000,000). All other departments shall apply the ten percent (10%) limitation to the summary by object line items. No transfers or changes, regardless of amount, from salary funds may be made without the prior approval of the Joint Legislative Commission on Governmental Operations. The Commission must take action within 40 days of receiving a request for approval from the Office of State Budget and Management. Transfers or changes within the Medicaid program are exempt from this subsection.”

—DEAF INTERPRETERS

Sec. 83. Effective January 1, 1982, funds appropriated in Section 2 of this act to the Department of Administration in the amount of seven thousand
five hundred dollars ($7,500) for fiscal year 1981-82, shall be used to establish a reserve fund to enable the Department of Administration to meet the requirements of G.S. 8A-8(e) and (f) as enacted by Chapter 937 of the 1981 Session Laws. Entities required by G.S. 8A-8(e) and (f) to provide payment to interpreters may apply to the Department of Administration for reimbursement for services provided, retroactive to October 1, 1981.

—DEPARTMENT OF CORRECTION TECHNICAL AMENDMENT

Sec. 84. Effective July 1, 1981, G.S. 15A-1355(c) is amended by adding the following sentence:

"The Department of Correction may give credit toward service of the maximum term and any minimum term of imprisonment and toward eligibility for parole for allowances of time as provided in rules and regulations made under G.S. 148-11 and 148-13."

PART XVI.—SPECIAL PROVISIONS—APPROPRIATIONS ACT

—RETAIN APPROPRIATIONS LIMITATIONS AND DIRECTIONS

Sec. 85. Except where expressly repealed by this act, the provisions of 1981 Session Laws Chapter 859, and the provisions of 1981 Session Laws Chapter 860 remain in effect.

Sec. 86. Notwithstanding any modifications by this act in the amounts appropriated, except where expressly repealed, the limitations and directions in 1981 Session Laws Chapter 859 and Chapter 860 that applied to appropriations to particular agencies or for particular purposes apply to the newly enacted appropriations of this act for those same particular purposes.

—EXECUTIVE BUDGET ACT REFERENCE

Sec. 87. The provisions of the Executive Budget Act, Chapter 143, Article 1, of the General Statutes, are reenacted and shall remain in full force and effect and are incorporated in this act by reference.

—EFFECT OF MOST LIMITATIONS AND DIRECTIONS IN TEXT/ONLY 1981-83

Sec. 88. Except for codified statutory changes or other provisions that clearly indicate an intention to have effects beyond the 1981-83 biennium, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 1981-83 biennium.

—SEVERABILITY CLAUSE

Sec. 89. If any section or provision of this act is declared unconstitutional or invalid by the courts, the decision of the court shall not affect the validity of the act as a whole or the validity of any part other than the part declared to be unconstitutional or invalid.

—CAPTIONS NOT LIMIT TEXT/ONLY FOR REFERENCE

Sec. 90. The series of captions used in this act (the descriptive phrases in all capital letters identified by parts numbered with Roman numerals or preceded by five hyphens) are inserted for convenience and reference only, and they in no way define, limit, or prescribe the scope or application of the text of the act.

—EFFECTIVE DATE

Sec. 91. Except as otherwise specifically provided, this act is effective upon ratification. However, beginning dates for new positions and new programs are subject to the limitations imposed by the amounts of the relevant supplemental appropriations.
In the General Assembly read three times and ratified, this the 10th day of October, 1981.

S. B. 577  CHAPTER 1128
AN ACT TO ALLOW A FEE FOR EACH NUCLEAR ELECTRIC GENERATING PLANT LOCATED IN NORTH CAROLINA FOR THE PURPOSE OF DEFERRING THE COSTS OF PLANNING EMERGENCY RESPONSE AS REQUIRED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 166A of the General Statutes, as the same is found in the 1980 Interim Supplement to the General Statutes, is amended by adding a new section to read as follows:

"§ 166A-6.1. Emergency planning; charge.—Every person, firm, corporation or municipality who is licensed to construct or who is operating a fixed nuclear facility for the production of electricity shall pay to the State of North Carolina for use of the Department of Crime Control and Public Safety an annual fee of at least thirty thousand dollars ($30,000) for each fixed nuclear facility located within this State. This fee is to be used to assist in or partially defray such costs of planning and implementing emergency response activities as are required of the State by the Federal Emergency Management Agency for the operation of nuclear facilities. Said fee is to be paid no later than July 1 of each year. This minimum fee may be increased from time to time as the costs of such planning and implementation increase. Such increases shall be by agreement between the State and the licensees or operators of the fixed nuclear facilities."

Sec. 2. This act is effective upon ratification and licensees or operators of fixed nuclear facilities are required to pay a fee of thirty thousand dollars ($30,000) for the first year on or before November 1, 1981 and for succeeding years on or before July 1 of each year.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.

H. B. 1241  CHAPTER 1129
AN ACT APPROPRIATING FUNDS TO THE NORTH CAROLINA DEPARTMENT OF AGRICULTURE TO ESTABLISH A REGIONAL FARMERS MARKET AT CHARLOTTE.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Department of Agriculture the sum of two hundred fifty thousand dollars ($250,000) for fiscal year 1981-82 for the purpose of obtaining land and constructing thereon facilities to be operated by the Department as a regional farmers market at Charlotte.

Sec. 2. None of the funds appropriated by this act shall be made available unless matched with an equal amount of non-State funds. None of the funds appropriated by this act may be used for operating the facility.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.
AN ACT TO APPORTION THE DISTRICTS OF THE NORTH CAROLINA HOUSE OF REPRESENTATIVES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 120-2 is rewritten to read:

"§ 120-2. House apportionment specified.—For the purpose of nominating and electing members of the North Carolina House of Representatives in 1982 and periodically thereafter, the State of North Carolina shall be divided into the following districts:

District 1 shall consist of Camden, Chowan, Currituck, Dare, Pasquotank, Perquimans, Tyrrell, and Washington Counties, and shall elect two Representatives.

District 2 shall consist of Beaufort and Hyde Counties, and shall elect one Representative.

District 3 shall consist of Craven, Lenoir, and Pamlico Counties, and shall elect three Representatives.

District 4 shall consist of Carteret and Onslow Counties, and shall elect three Representatives.

District 5 shall consist of Bertie, Gates, Halifax, Hertford, Martin, and Northampton Counties, and shall elect three Representatives.

District 6 shall consist of Edgecombe, Nash, and Wilson Counties, and shall elect four Representatives.

District 7 shall consist of Greene and Pitt Counties, and shall elect two Representatives.

District 8 shall consist of Wayne County, and shall elect two Representatives.

District 9 shall consist of Duplin and Jones Counties, and shall elect one Representative.

District 10 shall consist of Bladen, Pender, and Sampson Counties, and shall elect two Representatives.

District 11 shall consist of Brunswick and New Hanover Counties, and shall elect three Representatives.

District 12 shall consist of Columbus County, and shall elect one Representative.

District 13 shall consist of Robeson, Hoke, and Scotland Counties, and shall elect three Representatives.

District 14 shall consist of Cumberland County, and shall elect five Representatives.

District 15 shall consist of Harnett and Lee Counties, and shall elect two Representatives.

District 16 shall consist of Franklin and Johnston Counties, and shall elect two Representatives.

District 17 shall consist of Wake County, and shall elect six Representatives.

District 18 shall consist of Caswell, Granville, Person, Vance, and Warren Counties, and shall elect three Representatives.

District 19 shall consist of Durham County, and shall elect three Representatives.

District 20 shall consist of Chatham, Orange, and Randolph Counties, and shall elect four Representatives.
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District 21 shall consist of Moore County, and shall elect one Representative.
District 22 shall consist of Richmond County, and shall elect one Representative.
District 23 shall consist of Anson and Montgomery Counties, and shall elect one Representative.
District 24 shall consist of Cabarrus and Union Counties, and shall elect three Representatives.
District 25 shall consist of Stanly County, and shall elect one Representative.
District 26 shall consist of Davidson and Davie Counties, and shall elect three Representatives.
District 27 shall consist of Rowan County, and shall elect two Representatives.
District 28 shall consist of Alamance County, and shall elect two Representatives.
District 29 shall consist of Guilford County, and shall elect seven Representatives.
District 30 shall consist of Alleghany, Rockingham, Stokes, and Surry Counties, and shall elect four Representatives.
District 31 shall consist of Forsyth County, and shall elect five Representatives.
District 32 shall consist of Ashe, Avery, Caldwell, Mitchell, Watauga, Wilkes, and Yadkin Counties, and shall elect five Representatives.
District 33 shall consist of Alexander, Burke, Catawba, and Iredell Counties, and shall elect six Representatives.
District 34 shall consist of Mecklenburg County, and shall elect eight Representatives.
District 35 shall consist of Gaston and Lincoln Counties, and shall elect four Representatives.
District 36 shall consist of Cleveland, Polk, and Rutherford Counties, and shall consist of three Representatives.
District 37 shall consist of McDowell and Yancey Counties, and shall elect one Representative.
District 38 shall consist of Buncombe, Henderson, and Transylvania Counties, and shall elect five Representatives.
District 39 shall consist of Haywood, Jackson, Madison, and Swain Counties, and shall elect two Representatives.
District 40 shall consist of Cherokee, Clay, Graham, and Macon Counties, and shall elect one Representative.”

Sec. 2. 1981 Session Laws Chapter 800 is repealed.

Sec. 3. (a) Notwithstanding G.S. 163-106 or any other provision of law to the contrary, the filing period under Article 10 of General Statutes Chapter 163 for legislative offices (State Senate, State House of Representatives, and U. S. House of Representatives) for the filing year 1982 only, shall commence at 12:00 noon on Monday, February 15, 1982, and shall expire at 12:00 noon on Monday, March 1, 1982.

(b) In addition, the State Board of Elections is hereby authorized to establish the opening date for issuance of absentee ballots to be voted in the 1982 Primary Election and said Board shall establish a beginning date as early as practicable pending the printing of the ballots. Such opening date shall also apply to any referendum or election held on the date of the primary election.
Absentee ballots authorized under G.S. 163-227(b)(1) and G.S. 163-227(b)(4) shall be covered under the authority specified herein.

(c) The authority established in this section shall terminate following the conduct of the May 4, 1982, primary elections.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of October, 1981.
Comment on Resolutions

A general rule of legislative interpretation or construction is that a resolution does not have the force or effect of a law. In this context, a "law" means a legislative act that: Affects the rights or duties of people in the State; is of a permanent nature; is administered or enforced by the executive branch of government; and is subject to scrutiny by the judicial branch of government upon a proper challenge by a person aggrieved by the effect of the act.

A resolution is usually employed for purposes for which an act is not needed. For example, resolutions may be used to: Express opinions or sentiments of the General Assembly; create study commissions or authorize or direct studies to be undertaken by already existing entities; memorialize, honor, or commend persons; invite the Governor or other public officials to address the General Assembly in joint session; provide rules for the internal procedure of the General Assembly; or provide for adjournment of the General Assembly, with or without a date to reconvene.

A joint resolution is one adopted by both chambers of the General Assembly. Any changes made in the text of the resolution by one chamber must be agreed to by the other chamber. The resolutions published in this volume are all joint resolutions.

A simple resolution is one adopted by a majority of only one chamber. The most common uses of simple resolutions are for establishing House or Senate rules. The simple resolutions adopted by the General Assembly are published only in the House and Senate Journals.
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RESOLUTIONS

S. R. 1  RESOLUTION 1

A JOINT RESOLUTION INFORMING HIS EXCELLENCY, GOVERNOR JAMES B. HUNT, JR., THAT THE GENERAL ASSEMBLY IS ORGANIZED AND READY TO PROCEED WITH PUBLIC BUSINESS AND INVITING THE GOVERNOR TO ADDRESS A JOINT SESSION OF THE SENATE AND HOUSE OF REPRESENTATIVES AT 7:00 P.M., THURSDAY, JANUARY 15, 1981.

Be it resolved by the Senate, the House of Representatives concurring:

Section 1. A committee of two Senators and four Representatives shall be appointed by the presiding officers of the respective houses to notify His Excellency, Governor James B. Hunt, Jr., that the General Assembly is organized and is ready to proceed with public business, and to invite him to address a joint session of the Senate and House of Representatives at 7:00 p.m., Thursday, January 15, 1981.

Sec. 2. The full text of the Governor's message shall be carried in the appendix of the House and Senate Journals of the 1981 Session of the General Assembly.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of January, 1981.

H. R. 3  RESOLUTION 2

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF DR. MARTIN LUTHER KING, JR.

Whereas, Dr. Martin Luther King, Jr., was born in Atlanta, Georgia, on January 15, 1929, and was the second child of the Rev. Martin Luther King, Sr., a Baptist minister, and Alberta King, a schoolteacher; and

Whereas, Dr. Martin Luther King, Jr., came from a long line of Baptist ministers, including his father and maternal grandfather; and

Whereas, Dr. Martin Luther King, Jr., entered Morehouse College in Atlanta, Georgia, at the age of fifteen where he was enrolled in a special program for gifted students; and

Whereas, Dr. Martin Luther King, Jr., received the degree of Bachelor of Arts from Morehouse College in 1948; and

Whereas, Dr. Martin Luther King, Jr., attended Crozer Theological Seminary in Chester, Pennsylvania, from 1948 to 1951 and received the degree of Bachelor of Divinity in 1951; and

Whereas, Dr. Martin Luther King, Jr., attended Boston University to study philosophy and received the degree of Doctor of Philosophy in 1955; and
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Whereas, Dr. Martin Luther King, Jr., married Coretta Scott, a resident of Alabama and a student at the New England Conservatory of Music, in 1953; and

Whereas, Dr. Martin Luther King, Jr., received national recognition in 1955 and 1956 when he worked to end racial segregation in Montgomery, Alabama; and

Whereas, throughout his life, Dr. Martin Luther King, Jr., advocated nonviolent action to obtain equal rights for minorities and counselled his followers to show compassion, fairness, understanding, and even love to those who opposed the civil rights movement; and

Whereas, Dr. Martin Luther King, Jr., in 1964 became the youngest man in history to win the Nobel Peace Prize; and

Whereas, while preparing to lead a peaceful demonstration in Memphis, Tennessee, Dr. Martin Luther King, Jr., was shot and killed on April 4, 1968; and

Whereas, Dr. Martin Luther King, Jr., lived and died for the principles of equality, humanity, and harmony among the people of America;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly of North Carolina expresses its high regard for the life and services of Dr. Martin Luther King, Jr., and honors his memory on his birthday.

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of January, 1981.

H. R. 4   RESOLUTION 3

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF C. BLAKE THOMAS, A FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, C. Blake Thomas was born in a log cabin in Johnston County on November 3, 1893, and died May 10, 1980; and

Whereas, C. Blake Thomas was a devoted and lifelong servant of his native community; he taught at several public schools in the community; he was a member of the American Farm Bureau and served as chairman and vice-chairman of the Johnston County Local Production and Marketing Administration and the Johnston County PMA respectively; and

Whereas, C. Blake Thomas served proudly in the United States Army in World War I and was a member of the American Legion at his death; and

Whereas, C. Blake Thomas enriched his community through his interest and ability in music; he taught music in Johnston County for eleven years, composed hymns, served as a judge at many of the annual Singing Conventions in Benson, served on the Board of Directors of the Singing Convention and was a member of the Singing Convention's Hall of Fame; and

Whereas, C. Blake Thomas was actively involved in the Baptist Church, serving as deacon, Sunday school teacher, training union leader and music director, among other positions, at the Pisgah Baptist Church and as a moderator of the Johnston Baptist Association for two years; and

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Whereas, C. Blake Thomas served his community as well as the State of North Carolina through ten years of service in the House of Representatives from 1953-63;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly recognizes the achievements of C. Blake Thomas and expresses its appreciation for his contributions to the quality of life in his community and the State.

Sec. 2. The General Assembly extends its deepest sympathy to the family and friends of C. Blake Thomas and shares in their grief.

Sec. 3. The Secretary of State shall send a copy of this resolution to the widow of C. Blake Thomas and his children.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of January, 1981.

H. R. 66

RESOLUTION 4

A JOINT RESOLUTION INVITING HIS EXCELLENCY, GOVERNOR JAMES B. HUNT, JR., TO ADDRESS A JOINT SESSION OF THE SENATE AND HOUSE OF REPRESENTATIVES AT 8:30 P.M., MONDAY, FEBRUARY 2, 1981.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. A committee of two on the part of the Senate and four on the part of the House of Representatives shall be appointed by the presiding officers of the respective houses. The committee shall invite His Excellency, Governor James B. Hunt, Jr., to deliver an address to a Joint Session of the General Assembly at 8:30 P.M., Monday, February 2, 1981.

Sec. 2. The full text of the Governor's message shall be entered in the Appendix of the Senate and House Journals of the 1981 Session of the General Assembly.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of January, 1981.

H. R. 208

RESOLUTION 5

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JOHN ROBBINS McLAUGHLIN, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, John Robbins (Cousin John) McLaughlin was born in Statesville on November 19, 1906, and died on November 21, 1980; and

Whereas, he was educated in the Statesville public schools, at Oak Ridge Military Institute, and at Wake Forest University Law School; and

Whereas, he served his city and county in many capacities, including city attorney of Statesville from 1932 through 1935, and county attorney for Iredell County from 1935 through 1940; and

Whereas, he served his country in the United States Army in World War II and as a member and commander of the Hurst Turner Post of the American Legion; and
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Whereas, he served his State in many roles, beginning in 1936 when he became a member of the Conservation and Development Board for five years; and

Whereas, he also served as a member of the Industrial Commission from 1960 through 1962 and served several terms on the Wildlife Commission; and

Whereas, he was an able lawyer who was elected Solicitor from 1947 through 1951 and was a respected Superior Court Judge from his election in 1962 until his retirement in 1968; and

Whereas, despite these many forms of distinguished service to North Carolina, he may be best remembered for his years in the General Assembly, which began with a term in the House of Representatives in 1941 and continued through two more terms in the House, in the 1959 and 1961 Sessions of the General Assembly, and a term in the Senate in 1947; and

Whereas, his memory is preserved each session of the General Assembly by the continued use of his phrase, "catfish amendment", to describe the efforts of one of his colleagues to improve a bill; and

Whereas, he was most properly eulogized by his hometown newspaper, which referred to him as: "A sharp attorney, a smart legislator, a compassionate judge - John McLaughlin was that and more. He was a good story-teller, a true naturalist and an ardent conservationist. And, above all, he was a friend in need to the less fortunate. Another such will be a long time coming."

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly of North Carolina joins in mourning the passing of John Robbins McLaughlin and expresses its deep sorrow at the loss of this distinguished North Carolinian and respected colleague.

Sec. 2. The General Assembly of North Carolina expresses its great sympathy to the family of John R. McLaughlin for this loss.

Sec. 3. The Secretary of State shall transmit a copy of this resolution to the family of John R. McLaughlin.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of March, 1981.

H. R. 209

RESOLUTION 6

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF PLEAS (RED) LACKEY, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Pleas (Red) Lackey was born on March 29, 1906, in Alexander County and died on November 22, 1980; and

Whereas, he was educated in the Hiddenite public schools and at Kings Business College; and

Whereas, he served his country as a corporal in the United States Air Force from 1942 through 1945 and was later a member of the American Legion and the Veterans of Foreign Wars; and

Whereas, he was active in the civic and religious affairs of his community as a member of the Lions Club and the Sulphur Springs Baptist Church; and

Whereas, he served the people of North Carolina with distinction as a member of the North Carolina House of Representatives in the 1959 Session of the General Assembly and as a member of the Senate in the 1975 Session; and
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Whereas, as a member of the North Carolina General Assembly he made a valuable contribution to the work of that body;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly of North Carolina honors the life and service of its former member Pleas (Red) Lackey and expresses its gratitude for his service to the people of North Carolina.

Sec. 2. The General Assembly of North Carolina expresses its deepest sympathy to the family of Pleas (Red) Lackey for the loss of this distinguished citizen.

Sec. 3. The Secretary of State shall transmit a copy of this resolution to the family of Pleas (Red) Lackey.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of March, 1981.

S. R. 113

RESOLUTION 7

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF HUGH A. RAGSDALE, DISTINGUISHED FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Hugh A. Ragsdale was born in Smithfield on January 18, 1909, and died in Jacksonville on January 2, 1981; and

Whereas, Hugh A. Ragsdale was a prominent businessman in Onslow County for many years as an automobile dealer and a member of the North Carolina Auto-Car Dealers Association, being honored as Outstanding Automobile Dealer of the Year in North Carolina in 1972 and, in the same year, as a quality dealer award winner by TIME Magazine; and

Whereas, Hugh A. Ragsdale also served as a member of the Board of Directors of First Citizens Bank and the YOU, Inc., development association; and

Whereas, Hugh A. Ragsdale was active in the religious affairs of his community, serving as a member of the Administrative Board and Chairman of the Finance Committee of Richlands Methodist Church and serving as District Lay Leader, Chairman of the "No Empty Pulpit" program, and a member of the Board of Trustees of the Methodist Retirement Home; and

Whereas, Hugh A. Ragsdale was also active in the civic affairs of his community, serving on the boards of the Onslow County Library and the Onslow County Hospital; and

Whereas, Hugh A. Ragsdale was a distinguished and valuable member of the House of Representatives from 1963 to 1970, serving as Chairman of the Committee on Senatorial Districts during the 1965 General Assembly, Chairman of the Committee on Water Resources and Control during the 1967 General Assembly, and Chairman of the Committee on Water and Air Resources during the 1969 General Assembly; and

Whereas, Hugh A. Ragsdale, while he was a Representative, also served as Chairman of the Advisory Board of Commercial Fisheries, and as a member of the Governor's Committee to Study The University of North Carolina Board of Trustees; and

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Whereas, Hugh A. Ragsdale continued to serve the State after leaving the General Assembly, being appointed a Highway Commissioner in 1970; and
Whereas, Hugh A. Ragsdale was a leader in the development of secondary education in the coastal plains, serving as first Chairman of the Board of Trustees for Onslow Technical Institute and as Chairman of the Trustees of Coastal Carolina Community College, which service was honored in 1972 when the first classroom building of the new Coastal Carolina campus was named the Ragsdale Building;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly of North Carolina expresses its deep appreciation for the life and service of Hugh A. Ragsdale and honors his memory for his accomplishments as a civic, religious, legislative and educational leader.

Sec. 2. The General Assembly extends its deepest sympathy to the family of Hugh A. Ragsdale for the loss of this distinguished North Carolinian.

Sec. 3. The Secretary of State shall transmit a copy of this resolution to the family of Hugh A. Ragsdale.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of March, 1981.

S. R. 215  

RESOLUTION 8

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF CLYDE LOWELL BALL.

Whereas, Clyde Lowell Ball was born on October 12, 1916, and died on November 11, 1980; and
Whereas, he was educated in his native Tennessee and came to North Carolina after serving as a law professor at Vanderbilt and Columbia Universities; and
Whereas, he brought with him to North Carolina an expertise in bill drafting and legislative procedure demonstrated by his work with the Legislative Drafting Research Fund of Columbia University; and
Whereas, in 1956 he joined the faculty of the Institute of Government of The University of North Carolina at Chapel Hill and in that position until 1964 served the General Assembly of North Carolina in many ways, most especially as director of the Institute's legislative reporting service and as the author of The General Assembly of North Carolina and other publications for legislators; and
Whereas, after six years as a Professor of Law at Memphis State University, he returned to North Carolina in 1970 to once again serve the General Assembly and the people of North Carolina, this time as Legislative Services Officer; and
Whereas, as Legislative Services Officer in the 1970s he, more than any other individual, guided the development of a professional staff for the General Assembly; and
Whereas, from 1978 until his death he continued his service to the General Assembly in yet another capacity by becoming the first Director of the Legislature's Bill Drafting Division; and

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Whereas, in these several roles for three decades Clyde Ball served the General Assembly as a most able and reliable adviser; and
Whereas, the General Assembly of North Carolina owes a great debt to Clyde Ball for the truly professional service he provided;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly of North Carolina expresses its deep appreciation for the life and service of Clyde Lowell Ball. His counsel will be missed, yet he continues to serve this Legislature through the staff he did so much to create and train.

Sec. 2. The General Assembly of North Carolina expresses its deepest sympathy to the family of Clyde Lowell Ball for the loss of this fine public servant.

Sec. 3. The Secretary of State shall transmit a copy of this resolution to the family of Clyde Lowell Ball.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of March, 1981.

H. R. 215 RESOLUTION 9
A JOINT RESOLUTION DIRECTING THE NORTH CAROLINA DEPARTMENT OF HUMAN RESOURCES TO CONDUCT A RECODIFICATION STUDY OF THE PUBLIC HEALTH LAWS OF NORTH CAROLINA.

Whereas, the public health laws in the North Carolina General Statutes were last recodified in 1957; and
Whereas, the public health statutes are not in proper sequence, may contain contradictory provisions, and are generally out of date and in need of rewriting; and
Whereas, the main provisions affecting public health are in Chapters 130 and 131 of the General Statutes;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The North Carolina Department of Human Resources shall conduct a study of the public health laws in North Carolina with particular emphasis on Chapters 130 and 131 of the General Statutes.

Sec. 2. The Department of Human Resources shall prepare a report of suggested changes in the public health laws, and the Secretary of Human Resources shall submit that report with draft legislation implementing the recodification study to the 1983 General Assembly.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of March, 1981.
RESOLUTION 10

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF
CLYDE HAMPTON HARRISS, SR.

Whereas, Clyde Hampton Harriss, Sr., the son of T. W. and Cornelia Baldwin Harriss, was born in Candor, North Carolina, December 2, 1902, and died in Rowan County on December 24, 1979; and

Whereas, Clyde Hampton Harriss, Sr., was educated in the public schools of Laurinburg, and then after finishing college moved to Salisbury where he entered the automobile sales business; and

Whereas, Clyde Hampton Harriss, Sr., took an active and significant part in the business affairs of his community and State, founding a number of sales and finance companies, and becoming a director of Wachovia Bank and Trust Company in Salisbury; and

Whereas, Clyde Hampton Harriss, Sr., devoted considerable time, effort and financial resources to civic and charitable enterprises, including service as President and Director of Salisbury Sales Executive Club, President of Rowan County Red Cross Chapter, President of the Lions Club, Chairman of the Rowan County War Bond organization during World War II, President of the Salisbury-Rowan Chamber of Commerce, President of the Board of Trustees of Rowan Technical Institute, and member of the Elks Club, Masons, Knights of Pythias, YMCA, and St. John's Lutheran Church; and

Whereas, Clyde Hampton Harriss, Sr., served in the North Carolina House of Representatives for six terms from 1955 through 1965, during which time he served as Chairman of the Appropriations Committee, the Finance Committee, and the State Personnel Committee. In these and other committees he played a major role in much significant legislation, including the rewriting of the State Employees' Retirement Act; and

Whereas, in 1927 he married Mildred Godfrey. To this union were born two sons, Clyde H. Harriss, Jr., and Charles Harriss, and a daughter, Mrs. Sarah Harriss Dillon, all of whom survive;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. In the death of Clyde Hampton Harriss, Sr., the State of North Carolina has lost a dedicated and valuable citizen. He left the State a better place by reason of his service, and the General Assembly joins with his widow and children in mourning his passing.

Sec. 2. The Secretary of State will send a certified copy of this resolution to Mrs. Mildred Godfrey Harriss.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of March, 1981.

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RESOLUTION 11

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF SHEARON HARRIS, A FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Shearon Harris was a lifelong North Carolinian, whose achievements and successes are a credit to this State; and

Whereas, he was born in Vance County in 1917 and died in 1980; and

Whereas, he graduated from Wake Forest University with A.B. and LL.B. degrees; and

Whereas, he served his community and church as a deacon and Sunday school teacher, a trustee of Wake Forest University, Chairman of Meredith College Board of Trustees and parliamentarian of the Baptist State Convention; and

Whereas, he received the Religious Heritage of America Award and the North Carolina Citizens Association Citation for Distinguished Citizenship; and

Whereas, he served his country as a member of the armed services during World War II and received the Bronze Star and Legion of Merit Citations for this service; and

Whereas, he served his State as Principal Clerk of the North Carolina House of Representatives in 1941 and 1943 and as a Representative from Stanly County in the House of Representatives in 1955; and

Whereas, he contributed greatly to the world of business and public affairs in his positions as Chairman of the Chamber of Commerce of the United States, a member of the Business Roundtable and a member of the Business Council, among others, and was throughout his career a vigorous advocate of fiscal responsibility in government as a first step toward controlling inflation; and

Whereas, his influence in the business community extended to his membership on the Boards of Directors of General Motors Corporation, United States Steel Corporation, Wachovia Bank and Trust Company, Wachovia Corporation and Durham Life Insurance Company; and

Whereas, his enlightened leadership of Carolina Power & Light Company as chief executive officer from 1969 to 1979 served North Carolina well by providing for a dependable supply of electrical power, which helped attract business and industry to the State, thereby benefiting the entire citizenry; and

Whereas, he encouraged a national energy policy that would lead to independence from foreign oil and served as an eloquent spokesman for the entire electric industry, notably while Chairman of the Edison Electric Institute, Chairman of the National Association of Electric Companies and founder and Chairman of the Electric Power Research Institute; and

Whereas, he championed the cause of individual responsibility and freedom, and maintained a personal humility amidst his successes and State and national prominence;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly recognizes the achievements of Shearon Harris and expresses its gratitude for his exemplary service to the people and State of North Carolina.
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Sec. 2. The General Assembly joins with the family and friends of Shearon Harris in mourning the loss of one of North Carolina’s most cherished and accomplished citizens.

Sec. 3. The Secretary of State shall send a certified copy of this resolution to Shearon Harris’s family.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of March, 1981.

H. R. 320

RESOLUTION 12

A JOINT RESOLUTION JOINING GOVERNOR JAMES B. HUNT, JR. IN URGING THE NATIONAL PARK SERVICE TO SAVE THE HISTORIC CAPE HATTERAS LIGHTHOUSE.

Whereas, for more than 100 years, the Cape Hatteras Lighthouse has guided mariners safely around the “Graveyard of the Atlantic”; and

Whereas, the ethereal beauty of the lighthouse, noted by seamen and landlubbers alike, has made it a major tourist landmark for the Outer Banks of North Carolina, and for the State of North Carolina, drawing about 200,000 visitors a year from all over the world, it being 208 feet in height - the tallest lighthouse in the United States - and one of the few structures of its kind that the public can still ascend; and

Whereas, storm-driven ocean tides and resulting erosion present an imminent threat to the survival of this lighthouse which has, for so long, protected mariners from the treacherous shoals and rough seas; and

Whereas, when the State of North Carolina transferred the lighthouse property to the National Park Service in 1958, the federal government made a commitment to maintain and manage the property wisely; and

Whereas, the Governor of North Carolina feels that the commitment to wise maintenance and management of the property requires that action be taken immediately to preserve this invaluable historic landmark;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly of North Carolina joins Governor James B. Hunt, Jr., in recognizing the historical and aesthetic significance of the Historic Cape Hatteras Lighthouse for the reasons set forth above and in urging the National Park Service to immediately undertake action that will offer the most protection towards saving the lighthouse.

Sec. 2. The Secretary of State shall send certified copies of this resolution to the President of the United States, to appropriate officials of both the National Park Service and the United States Department of Interior and to the members of the North Carolina Congressional Delegation.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1981.

1671
S. R. 76

RESOLUTION 13

A JOINT RESOLUTION CALLING FOR ALL PEOPLE TO REMEMBER THE PRISONERS OF WAR OF PAST WARS AND CONFLICTS, INCLUDING THE IRANIAN PRISONERS, AND URGING THE NORTH CAROLINA CONGRESSIONAL DELEGATION TO INTRODUCE LEGISLATION TO EXTEND BENEFITS TO THE FAMILIES OF THESE HEROES.

Whereas, President Reagan declared January 29, 1981, as a day of thanksgiving for the return of the hostages from Iran; and

Whereas, the returned men and women are heroes in the truest sense of the word for having survived 444 days in captivity at the hands of the Iranian outlaws; and

Whereas, the American people through their elected representatives in Washington have rightfully extended certain benefits to the most deserving families of the hostages who also suffered depravations during the hostages' long captivity;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. We, the members of the General Assembly of the State of North Carolina, do by these presents express our thanksgiving for the safe return of the 52 hostages who represented this country with honor during their long ordeal.

Sec. 2. We, the members of the General Assembly of the State of North Carolina, further, by these presents express our highest regard for and appreciation for the lives of Marine Staff Sergeant Dewey L. Johnson of Jacksonville, North Carolina, Marine Sergeant John David Harvey, Marine Corporal George N. Holmes, Jr., Air Force Captain Richard Bakke, Air Force Captain Harold Lewis, Air Force Captain Lyn D. McIntosh, Air Force Captain Charles T. McMillan, and Air Force Technical Sergeant Joel C. Mayo who gave their lives during a gallant attempt to free the American hostages from captivity in Iran.

Sec. 3. We, the members of the General Assembly of the State of North Carolina, further, by these presents express our highest regards and appreciation to and urge our fellow citizens of this great nation never to forget the many men who sacrificed so much as prisoners of war during World War I, World War II, and especially the survivors of the Bataan Death March, the Korean Conflict, the Vietnam Conflict, and especially the survivors of the seizure of the U.S.S. Pueblo, and those gallant heroes who have not been accounted for and may still be captives in foreign prisons as a result of their service to this nation.

Sec. 4. We, the members of the General Assembly of the State of North Carolina, urge the North Carolina Congressional Delegation to introduce and press for the passage of legislation to extend all benefits, already passed and any that are contemplated, to be afforded to the returned Iran hostages and their families, to the families of these other deserving prisoners of war and the families of the eight brave military men who died in Iran trying to free the hostages.

Sec. 5. A copy of this joint resolution shall be mailed to each member of the United States Congress representing North Carolina.
H. R. 717  RESOLUTION 14
A JOINT RESOLUTION URGING THE CIVIL AERONAUTICS BOARD NOT TO PASS REGULATIONS BANNING SMOKING ABOARD ALL COMMERCIAL AIRPLANE FLIGHTS.

Whereas, the Civil Aeronautics Board is seeking citizen comment on a proposed rule to ban smoking aboard all commercial airplane flights; and

Whereas, the Civil Aeronautics Board has already promulgated rules restricting pipe and cigar smoking and requiring smokers to sit in designated smoking areas which assure that nonsmokers are accommodated comfortably; and

Whereas, smokers have just as much right as nonsmokers to travel in comfort; and

Whereas, tobacco is an extremely important commodity to the State of North Carolina;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Civil Aeronautics Board is urged not to adopt more restrictive regulations banning the smoking of tobacco on all commercial airplane flights.

Sec. 2. A certified copy of this resolution shall be sent to the Civil Aeronautics Board in Washington, D.C., to be entered as the formal expression of the General Assembly of North Carolina on Docket 29044.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of April, 1981.

H. R. 576  RESOLUTION 15
A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF WILLIAM THOMAS HATCH, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, William Thomas Hatch was born on April 1, 1905 in the Millbrook section of Wake County, North Carolina and died on July 17, 1979; and

Whereas, he was educated at Wake Forest College where he earned both a baccalaureate and a law degree; and

Whereas, he served in the North Carolina House of Representatives from 1936 to 1949 serving at various times as Chairman of the Higher Education, Library, Corporations, Judiciary, and Roads Committees; and

Whereas, the establishment of the North Carolina Art Museum owes much to the effort of this man. In 1947, after the Kress family offered the State an invaluable art collection if the State would appropriate funds for a museum, William Thomas Hatch, in the face of strong opposition, fought for the appropriation of one million dollars ($1,000,000) which was passed in 1949 and
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the resulting museum is nationally acclaimed and a source of pride to all North Carolinians; and

Whereas, during the last 30 years of his life, William Thomas Hatch served the public with distinction as a Special Judge of the North Carolina Superior Court, as President of the Wake County Bar Association, and as Chairman of the Wake County Democratic Executive Committee, and the Wake County Board of Elections; and

Whereas, he also served as a director of the Oxford Orphanage and of the Sudan Temple in New Bern, as Judge Advocate of the Grand Lodge, as a member of the Raleigh Chamber of Commerce and the Executives Club, as a President of the North Raleigh Lions Club, as a trustee and lay leader of the Millbrook United Methodist Church; and

Whereas, at the time of his death, Judge Hatch was a senior partner of the law firm of Hatch, Little, Bunn, Jones, Few, Berry, Permar and McClain;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly of North Carolina honors the life and service of its former member, William Thomas Hatch, and expresses its gratitude for his service to the people of North Carolina.

Sec. 2. The General Assembly of North Carolina expresses its deepest sympathy to the family of William Thomas Hatch for the loss of this distinguished citizen.

Sec. 3. The Secretary of State shall transmit a certified copy of this resolution to the family of William Thomas Hatch.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of April, 1981.

H. R. 800

RESOLUTION 16

A JOINT RESOLUTION COMMEMORATING THE 205TH ANNIVERSARY OF THE HALIFAX RESOLVES.

Whereas, April 12, 1981, is the 205th anniversary of the occasion on which the Fourth North Carolina Provincial Congress adopted the famous Halifax Resolves; and

Whereas, the Halifax Resolves authorized the North Carolina delegates to the Continental Congress at Philadelphia to concur with the delegates of other colonies in a declaration of independence from the British Empire; and

Whereas, the members of the Fourth Provincial Congress were already determined on the course of independence and knew other colonies were likewise so determined; and

Whereas, the said members forbore to take unilaterally an action which they conceived ought to be taken by all 13 colonies acting in unison; and

Whereas, by such forbearance they set the example for American unity in defense of American liberty; and

Whereas, such examples led ultimately to the winning of American independence and to the establishment of the oldest surviving constitutional republic in the world; and

Whereas, the examples set at Halifax on April 12, 1776, ought ever to be an inspiration and model for all North Carolinians and Americans; and
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Whereas, April 12 of every year has been designated as Halifax Day; and
Whereas, Halifax Day is the occasion on which the State and the nation are annually reminded of the wisdom, courage, and foresight of the Fourth North Carolina Provincial Congress; and
Whereas, the General Assembly of North Carolina is desirous of making known its approbation and support of the purpose of Halifax Day;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly of North Carolina extends its warmest wishes and highest respects to those citizens of North Carolina and other states gathered at Halifax to commemorate Halifax Day.

Sec. 2. The General Assembly commends to all North Carolinians and all Americans that they study and emulate the example set at Halifax by the members of the Fourth North Carolina Provincial Congress on April 12, 1776.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of April, 1981.

S. R. 193

RESOLUTION 17

A JOINT RESOLUTION TO ESTABLISH THE PROCEDURE FOR NOMINATING AND ELECTING MEMBERS OF THE BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA.

Whereas, the General Assembly is charged with the responsibility for electing members of the Board of Governors of The University of North Carolina; and
Whereas, it is incumbent upon both the Senate and the House of Representatives to have uniform methods and procedures for electing members of the Board of Governors of The University of North Carolina;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. There are hereby adopted procedures for nominating and electing members of the Board of Governors of The University of North Carolina as follows:

1. COMMITTEE RESPONSIBILITIES.

1. It is the duty of the University Board of Governors Nominating Committee in the House of Representatives to choose at least two candidates for each opening in each category of seats on the Board of Governors of The University of North Carolina to which the House of Representatives is to elect members. It is the duty of the University Board of Governors Committee in the Senate to choose at least two candidates for each opening in each category of seats on the Board of Governors of The University of North Carolina to which the Senate is to elect members. The committees shall act separately for the purpose of carrying out these duties.

2. The Senate shall vote only upon those persons chosen as candidates for nomination in the eight-year at-large category by the University Board of Governors Committee in the Senate, or proposed as candidates from the floor of the joint session of the Senate and House of Representatives; and the House of Representatives shall vote only upon those persons chosen as candidates for
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nomination in the eight-year at-large category by the University Board of Governors Nominating Committee in the House of Representatives, or proposed as candidates from the floor of the joint session of the Senate and House of Representatives.

3. The University Board of Governors Committee in the Senate shall receive suggestions of persons to be considered for election to the University Board of Governors through April 15, 1981. In order for a person to have standing to be considered as a candidate for nomination by the Senate Committee, that person must be formally proposed as a candidate for nomination by a member of the Senate committee.

4. The University Board of Governors Nominating Committee in the House of Representatives shall receive suggestions of persons to be considered for election to the University Board of Governors through April 15, 1981. Any person proposed in writing by a member of the House of Representatives to the Chairman of the University Board of Governors Nominating Committee shall be considered as a candidate for nomination by the House Committee.

5. After April 15, 1981, the Senate and House committees shall meet separately and receive from members of the committee formal proposals for nomination. A committee member may propose candidates only for the categories available for election by the House of which he is a member.

6. The House and Senate committees shall screen the proposed candidates for nomination as to their qualifications and background, and may interview each one to make sure that suitable candidates for election are nominated for each category and that each is willing and able to serve and has no statutory disability.

7. There is no limit on the number of persons a Senator may propose as candidates. When the proposing process is closed, the University Board of Governors Committee in the Senate shall list all proposed candidates by category and shall vote “aye” or “no” on each proposed candidate for nomination and listed on the Senate ballot. A vote of a majority of those members of the Senate committee present and voting shall constitute one a candidate for nomination. An individual cannot be a candidate for nomination in more than one category.

8. A Representative may propose only as many persons as candidates as there are places to be filled by the House. When the proposing process is closed, the University Board of Governors Committee in the House of Representatives shall list all proposed candidates by category. The House Committee shall vote to determine whether each person considered shall be placed on the House ballot as a “Recommended Nominee” or a “Nominee”. A majority vote of the members of the House Committee who are present shall constitute one a "Recommended Nominee" or a "Nominee" as the Committee shall determine. An individual cannot be a candidate for nomination in more than one category.

9. Committee candidates shall be placed before and recommended to a joint session of the House of Representatives and the Senate.

II. JOINT SESSION—SELECTION OF NOMINEES.

1. The Senate and House of Representatives shall meet in joint session at 2 p.m. on May 13, 1981, for the purpose of nominating persons for election to the Board of Governors of The University of North Carolina. In the joint session of the Senate and House of Representatives, committee nominations shall be made first and then the floor shall be opened for the nomination by any Senator
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or Representative of persons for election to the Board of Governors. Nominees shall be grouped into the following categories, as required by G.S. 116-6:

1. Women nominees for eight-year term,
2. Minority race nominees for eight-year term,
3. Minority party nominees for eight-year term,
4. At-large nominees for eight-year term, Senate
5. At-large nominees for eight-year term, House of Representatives
6. Women nominees for four-year term.

2. In proposing a nominee, the nominator shall state the category for which the nominee is being proposed. An individual cannot be proposed in more than one category.

3. There is no limit on the number of persons one Senator may propose as nominees and no limit on the categories for which he may propose persons in the joint session. In the joint session, a Representative may propose as nominees only as many persons as there are positions to be filled in each category.

4. Names shall continue to be received until the number of nominees is at least twice the number of places to be filled in each category, that is, there shall be a minimum of two women, two Republicans, two racial minority members, four at-large nominees (Senate), and six at-large nominees (House of Representatives) for an eight-year term, and two women nominees for a four-year term.

5. No vote shall be taken on the nominees in the joint session. When the names of all candidates for nomination have been received, the joint session shall be dissolved.

6. The Chairman of the University Board of Governors Nominating Committee in the House of Representatives and the Chairman of the University Board of Governors Committee in the Senate shall contact all nominees and ascertain whether they would serve if elected. Any nominee may withdraw his name without the approval of the person who proposed his name. If withdrawals reduce the number of nominees below twice the number of places to be filled in any category, another joint session of the Senate and House shall be held to receive sufficient additional nominations in that category.

III. ELECTIONS IN THE SENATE.

1. A ballot shall be prepared under the supervision of the Chairman of the University Board of Governors Nominating Committee in the House of Representatives and the Chairman of the University Board of Governors Committee in the Senate for the use of the Senate.

2. The ballot shall list only those nominees proposed by the University Board of Governors Committee in the Senate who have consented to run and all those nominees proposed from the floor in the joint session who have consented to run and for whom the Senate is entitled to vote. Their names shall be arranged (a) by length of term, (b) by category, and (c) within each category, alphabetically by surname.

3. The Senate shall hold its election at the beginning of the daily session on May 13, 1981. Before the voting begins, the President of the Senate shall explain the voting rules, which are:

(i) No nominations will be received from the floor.
(ii) In order to be chosen, a nominee must receive the votes of a majority of all members present and voting for his category.

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Committee Chairman of Senate Committee Nominating member of Board of Senate has received Board of Senate the persons Two members 4. The Chairman of the University Board of Governors Nominating Committee in the House of Representatives and the Chairman of the University Board of Governors Committee in the Senate shall be responsible for canvassing the vote and declaring the results thereof. The number of votes received by each candidate shall not be released.

5. The Chairman of the University Board of Governors Committee in the Senate and the Chairman of the University Board of Governors Nominating Committee in the House of Representatives have determined that the Senate has chosen one member of the Board of Governors who is a woman for a term of eight years, one member of the Board of Governors who is a member of a minority race for a term of eight years, and two members of the Board of Governors from the at-large category for a term of eight years, the Chairman of the University Board of Governors Committee in the Senate shall

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make a motion for the simultaneous election of those four persons by the Senate to the indicated positions and for the indicated terms. The roll of the Senate shall then be called electronically. If a majority of those voting shall vote “aye” the persons whose names appear on the list shall be declared to have been elected.

7. The results of the election in the Senate shall then be sent by Special Messenger to the House of Representatives.

IV. ELECTIONS IN THE HOUSE OF REPRESENTATIVES.

1. A ballot shall be prepared under the supervision of the Chairman of the University Board of Governors Nominating Committee in the House of Representatives and the Chairman of the University Board of Governors Committee in the Senate for the use of the House of Representatives.

2. The ballot shall list only those nominees proposed by the University Board of Governors Nominating Committee in the House of Representatives who have consented to run and all those nominees proposed from the floor in the joint session who have consented to run and for whom the House is entitled to vote. Their names shall be arranged (a) by length of term, (b) by category, and (c) within each category, alphabetically by surname. Each person whose name appears on the ballot shall be thereby designated as a “Recommended Nominee” or as a “Nominee” as the University Board of Governors Nominating Committee in the House of Representatives shall have determined.

3. The House of Representatives shall hold its election immediately after being notified by Special Messenger that the Senate has completed its election. Before the voting begins, the Speaker of the House of Representatives shall explain the voting rules, which are:

(i) No nominations will be received from the floor.

(ii) In order to be chosen, a nominee must receive the votes of a majority of all members present and voting for his category.

(iii) Each member present and voting shall vote for as many nominees as there are positions to be filled in each category, and any ballot not so marked shall be deemed void as to that category.

(iv) When a nominee for a category containing a single position is to be chosen and no candidate receives a majority of the votes cast for all the candidates in that category, a runoff shall be conducted between the person receiving the highest and the person receiving the second highest number of votes cast.

(v) When fewer than three nominees in the eight-year at-large category receive the votes of a majority of all members present and voting for positions in that category, a runoff to fill the open position or positions shall be conducted among the nominees receiving the highest number of votes cast, and the number of nominees eligible to be voted on in the runoff shall be twice the number of positions to be filled.

(For the purpose of illustration, if when the first ballot is taken, no nominee receives a majority, then the top six vote-getters will be in the runoff, because there must be twice the number of persons in the runoff than there are positions to be filled and the House has three such positions to fill. If one person receives the votes of a majority of all members present and voting in that category, then he is elected and a runoff will be held among the four next highest vote-getters. This is so
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because there are two positions remaining to be filled and there must be twice the number of nominees in the runoff than there are positions available, therefore four. If two people receive the votes of a majority of the members present and voting, both will be elected and a runoff will be held between the two next highest vote-getters, because only one position remains to be filled.)

(vi) If there is a tie for the last position between two nominees who are eligible for the next runoff, both nominees will be included in the next runoff balloting, even though there would thereby be more than two nominees per available position on the Board of Governors.

(vii) When more than three nominees in the eight-year at-large category receive the votes of a majority of all members present and voting for positions in that category, then the three nominees receiving the highest number of votes shall be deemed to have been chosen.

4. The members of the House of Representatives shall proceed to mark their ballots for the following:

Three persons in the at-large category for eight-year terms,
One person in the minority party category for an eight year term,
One person in the women’s category for a four-year term.

5. The Chairman of the University Board of Governors Nominating Committee in the House of Representatives and the Chairman of the University Board of Governors Committee in the Senate shall be responsible for canvassing the vote and declaring the results thereof. The number of votes received by each candidate shall not be released.

6. When the Chairman of the University Board of Governors Committee in the Senate and the Chairman of the University Board of Governors Nominating Committee in the House of Representatives have determined that the House of Representatives has chosen three members of the Board of Governors from the at large category for a term of eight years, one member of the Board of Governors from the minority party category for a term of eight years, and one member of the Board of Governors from the women’s category for a four-year term, the Chairman of the University Board of Governors Nominating Committee in the House of Representatives shall make a motion for the simultaneous election of those five persons by the House of Representatives to the indicated positions and for the indicated terms. The roll of the House shall then be called electronically. If a majority of those voting shall vote “aye”, the persons whose names appear on the list shall be declared to have been elected.

7. The results of the election in the House of Representatives shall then be sent by Special Messenger to the Senate.

V. NOTIFICATION OF ELECTION RESULTS.

1. When the election process is complete, the Chairman of the University Board of Governors Committee in the Senate and the Chairman of the University Board of Governors Nominating Committee in the House of Representatives shall notify the Secretary of the Board of Governors of The University of North Carolina of the names of the persons elected by the General Assembly and the category for which and term for which each of them was elected.

Sec. 2. This resolution is effective upon ratification.
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In the General Assembly read three times and ratified, this the 13th day of April, 1981.

S. R. 272

RESOLUTION 18

A JOINT RESOLUTION URGING THE UNITED STATES GOVERNMENT TO SEEK THE RETURN OF MISSING AND DECEASED PERSONS IN SOUTHEAST ASIA.

Whereas, a cease-fire in Vietnam became effective on January 27, 1973; and

Whereas, approximately 60 North Carolinians remain unaccounted for in Southeast Asia; and

Whereas, recent eyewitness reports coming from Indochina attest to sightings of men held captive who appear to be American servicemen in captivity; and

Whereas, there is good reason to believe that the remains of deceased Americans are being secretly held by the Republic of Vietnam; and

Whereas, all Americans, and particularly the League of Families for POW/MIA'S, the American Legion, and other veterans' organizations, share the concern to obtain full accountability for all those servicemen missing in Southeast Asia;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. We encourage offices and agencies of the Federal Government to initiate all positive actions to secure an accurate accounting and expeditious return to the United States of all missing persons or the remains of those persons being held by the Southeast Asian Countries.

Sec. 2. A copy of this resolution shall be sent to the President of the United States, Ronald Reagan; the Governor of the State of North Carolina, James B. Hunt, Jr.; and all members of the North Carolina Senatorial and Congressional Delegations in Washington, D.C.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of April, 1981.

S. R. 318

RESOLUTION 19

A JOINT RESOLUTION HONORING THE LIFE OF ODELL SAPP, A FORMER DISTRICT COURT JUDGE AND STATE SENATOR.

Whereas, Odell Sapp was born in Winston-Salem on November 1, 1907, and died on April 14, 1977; and

Whereas, he was educated in the Forsyth County public schools and at The University of North Carolina at Chapel Hill, from which he received his undergraduate and law degrees; and

Whereas, at Chapel Hill he was an All-Southern end on the football team and the All-Southern light heavyweight boxing champion; and

Whereas, he joined his father's law practice in Winston-Salem in 1935; and

Whereas, in 1941 he moved to Salisbury to join the Raney-Miller Motor Company, a firm with which he remained until 1966 and of which he later served as president; and

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Whereas, his tenure with the motor company was interrupted from 1942-1945 while he served in the Navy in the Pacific; and

Whereas, upon returning from the war Odell Sapp established himself as an outstanding leader by ably serving the Salisbury Community Chest, the United Fund, the YMCA movement in Salisbury-Rowan, Rowan Technical Institute, the Rotary Club, the UNC General Alumni Association, the Morehead Scholarship District Committee, and Wachovia Bank & Trust Company and by winning Salisbury's "Man of the Year", the Industrial Management Club's "Industrial Man of the Year", and the Benjamin Franklin Quality Dealer Award; and

Whereas, upon his return to the practice of law in 1966 he became an outstanding governmental leader, serving in the Senate during the 1969 General Assembly and later serving as District Court Judge for the Nineteenth Judicial District; and

Whereas, Odell Sapp also served his community and State as a member of the Rowan County ABC Board, the Salisbury Recreation Commission, and the North Carolina Criminal Code Commission, and by serving as a U.S. Commissioner from the Middle District of North Carolina; and

Whereas, he was a member of St. John's Lutheran Church and taught Sunday School for many years; and

Whereas, he was highly respected for his sound judgment, character, and integrity; and

Whereas, his community has honored him in many ways including naming the track at the Knox Junior High School, The Odell Sapp Track and Sports Complex;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly recognizes the achievements of Odell Sapp and expresses its gratitude for his exemplary service to the people and State of North Carolina.

Sec. 2. The General Assembly expresses its sympathy to the family and friends of Odell Sapp for the loss of this distinguished citizen.

Sec. 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Odell Sapp.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of April, 1981.

H. R. 419

RESOLUTION 20

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JAMES WOMBLE HOYLE, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, James Womble Hoyle was born in Sanford, Lee County, on July 4, 1925, and died on August 23, 1980; and

Whereas, he was educated in the Sanford and Lee County public schools, having graduated at Sanford High School in 1942; and

Whereas, he continued his education at The University of North Carolina at Chapel Hill where he earned his A.B. degree and his L.L.B. degree from The University of North Carolina Law School in 1950; and

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Whereas, he served his country in the Army of the United States from 1943 to 1946 as a Technical Sergeant and fought in World War II; and
Whereas, upon his admission to the North Carolina Bar in 1950, he became one of the most distinguished and able trial lawyers in the State, and was recognized as one of the most knowledgeable jurists and legal scholars in North Carolina prior to his death; and
Whereas, he served in numerous capacities as a member of the Bar, including President of the Lee County Bar during 1966-1967; and
Whereas, he rendered distinguished service to North Carolina, as a member of the General Assembly, which began with a term in the Senate in 1957 and another term in the Senate in the 1961 Session of the General Assembly where he was recognized for his expertise in legal matters; and
Whereas, he served on the North Carolina General Statutes Commission from 1957 to 1959 where he made a valuable contribution in the drafting and codification of our State statutes; and
Whereas, he was a member of St. Luke Methodist Church and served his church in many capacities, serving as a member of its administrative board, Board of Trustees, as Lay leader and also serving as a member of the Board of Trustees for the Sanford District and as a member of the Board of Trustees of the North Carolina Conference of the United Methodist Church; and
Whereas, he was most properly eulogized by his hometown newspaper, which referred to him as: "A brilliant attorney, who possessed intimate knowledge about North Carolina and its people".

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly of North Carolina joins in mourning the passing of James Womble Hoyle and expresses its deep sorrow at the loss of this distinguished North Carolinian and respected colleague.

Sec. 2. The General Assembly of North Carolina expresses its great sympathy to the family of James Womble Hoyle for this loss, particularly his wife, Julia Alexander Hoyle, his brother, Kenneth Richard Hoyle, and his mother, Mrs. Jewel W. Hoyle.

Sec. 3. The Secretary of State shall transmit a copy of this resolution to the family of James Womble Hoyle.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of April, 1981.

H. R. 450   RESOLUTION 21

A JOINT RESOLUTION URGING THE UNITED STATES CONGRESS TO ALLOW THE STATES FLEXIBILITY IN THE USE OF FEDERAL-AID HIGHWAY FUNDS.

Whereas, the State's continued population and economic growth, and the desirability of continuing to attract new industry to raise the standard of living of North Carolina's citizens makes it imperative that the State's good highway system be preserved; and
Whereas, higher gasoline prices and boycotts have, since October 1973, reduced gasoline tax collections in North Carolina far below the amount that
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would have been collected based on the pre-1973 growth trend of seven and one-half percent (7.5%) per year; and

Whereas, highway construction and maintenance costs, particularly for materials that are petroleum-based, are increasing at a rate of more than twenty percent (20%) per year; and

Whereas, severe winter weather during the last few years has caused extensive damage to many roads in our State; and

Whereas, these conditions have precipitated a crisis in State and local funding of highways in North Carolina; and

Whereas, because of this crisis North Carolina will be unable to protect its existing highway system through maintenance activities and will be unable to match federal-aid highway construction funds apportioned to the State; and

Whereas, all states in the United States are facing the same basic highway funding crisis; and

Whereas, since 1916 the federal government has taken a strong partnership role with the states in planning the development of the nation’s highway system and has provided a large share of the funding of this system; and

Whereas, since 1970 the federal government has been providing seventy percent (70%) to seventy-five percent (75%) federal funding for construction of improvements to the Federal-Aid Primary System and Federal-Aid Secondary System; and

Whereas, federal-aid highway legislation prior to 1978 required the states to use the federal aid solely for new construction, with maintenance remaining a State responsibility; and

Whereas, the Surface Transportation Assistance Act of 1978 required that 20 percent (20%) of the aid for fiscal years 1979 through 1983 be expended for “3-R” purposes (resurfacing, restoration, and rehabilitation); and

Whereas, reduced driving resulting from the public’s conservation effort requires federal and state lawmakers to reassess the need to appropriate more funds for highway construction; and

Whereas, the Reagan Administration is considering a proposal to raise the federal gasoline tax, to allow states to use that additional tax, and to allow the states flexibility in redirecting the use of federal aid from the construction of new highways to the maintenance of existing roads and bridges;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly of North Carolina urges the Congress of the United States to amend the Surface Transportation Assistance Act of 1978 to give states receiving federal-aid highway funds the necessary flexibility to use these funds for highway maintenance and other nonconstruction federal-aid highway needs that the Governor and legislature of each state feels are most important.

Sec. 2. The Secretary of State is directed to send copies of this resolution to the Speaker of the United States House of Representatives, the President of the United States Senate and the members of our State’s delegation to the United States Congress in order that they may be apprised of the sense of the North Carolina General Assembly.

Sec. 3. This resolution is effective upon ratification.

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In the General Assembly read three times and ratified, this the 14th day of April, 1981.

H. R. 678  RESOLUTION 22
A JOINT RESOLUTION CONDEMNING THE TRAITOROUS AND VIOLENT ATTACK ON THE LIFE OF PRESIDENT REAGAN AND SUPPORTING THE VICTIMS OF THIS ATTACK AND THEIR FAMILIES IN THEIR ORDEAL.

Whereas, the people of North Carolina were horrified to learn that, on March 30, 1981, an assassination attempt was made on the life of Ronald Reagan, President of the United States, which resulted in his receiving a serious wound, and in three other persons being seriously injured; and

Whereas, this senseless and traitorous attack on the life of the leader of our country is not the first but the seventh such attack in this century, William McKinley and John Kennedy dying as a result, and Theodore Roosevelt, Franklin D. Roosevelt, Harry Truman and Gerald Ford escaping injury; and

Whereas, such an assassination attempt threatens the very fabric of our society by ripping apart the order by which we govern ourselves; and

Whereas, the citizens of North Carolina wish to express their outrage against the attempt to assassinate the President and also wish to express their support for the victims of the attempt;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly of North Carolina, for the people of North Carolina of all political parties and convictions, condemns the atrocious, traitorous attack on the President of the United States and supports President Reagan, Press Secretary James Brady, Secret Service Agent Timothy J. McCarthy, Metropolitan Police Department Officer Thomas K. Delahanty and their families, extending sympathy and appreciation for their untimely sacrifice and fervent hope for their speedy recovery and return to public service.

Sec. 2. A copy of this resolution shall be sent to the families of the victims of this attack on President Reagan.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of April, 1981.

H. R. 811  RESOLUTION 23
A JOINT RESOLUTION RECOGNIZING MAY FIRST AS LAW DAY.

Whereas, May 1 of each year has been set aside by Joint Resolution of Congress as a "special day of celebration by the American people in appreciation of their liberties and the reaffirmation of their loyalty to the United States of America"; and

Whereas, many have given their lives to secure these liberties; and

Whereas, the Law Day celebration is sponsored by the American Bar Association, the North Carolina Bar Association, and 800 other state and local bar associations throughout the country; and

Whereas, the purpose of Law Day is to advance equality and justice under law, to encourage citizen support of law observance and law enforcement, and to

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foster respect for law and understanding of its essential place in the life of every
citizen of the United States; and

Whereas, the central message of Law Day 1981 is that a just and
democratic rule of law must prevail in order that we may live together in peace
and as a civilized society; and

Whereas, the objective of Law Day 1981 is to foster greater public
understanding of the principles on which our nation was founded; to explore the
links between law, our form of government and our way of life; and to examine
how these fundamental elements can be strengthened;

Now, therefore, be it resolved by the House of Representatives, the Senate
concurring:

Section 1. The General Assembly recognizes May 1, 1981, as Law Day
and commends the celebration of this event by the North Carolina Bar
Association. The General Assembly encourages all citizens of the State to
participate in locally sponsored events in recognition of Law Day.

Sec. 2. In recognition of the objectives of Law Day 1981, the General
Assembly commends those who have given their lives to protect American
liberties and our system of laws and urges all citizens to commemorate the past,
reflect upon the present, and demonstrate their faith in our nation and its
charters of freedom: the Declaration of Independence, the Constitution, and the
Bill of Rights.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day
of April, 1981.

S. R. 469  RESOLUTION 24

A JOINT RESOLUTION RECOGNIZING NATIONAL SECRETARIES’
WEEK AND HONORING SECRETARIES THROUGHOUT THE STATE.

Whereas, secretaries provide a valuable and necessary service to their
employers in all fields of business, industry, education, and government; and

Whereas, the General Assembly is especially aware of the important
contribution of its own legislative secretaries; and

Whereas, the week of April 20, 1981, is designated as “Secretaries’ Week”
and is sponsored by the National Secretaries Association (International) in
order to bring recognition to all secretaries, to inform the public of their vital
contribution, and to remind secretaries of their professional responsibilities;

Now, therefore, be it resolved by the Senate, the House of Representatives
concurring:

Section 1. That the General Assembly hereby recognizes the benefits
that this State receives from its secretaries and salutes all secretaries for their
outstanding services. Appreciation is especially extended to legislative
secretaries for their invaluable service to the State.

Sec. 2. That the citizens of the State of North Carolina are called upon
to observe national “Secretaries’ Week” and exhibit their own appreciation and
gratitude for the work performed by secretaries.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of
April, 1981.
H. R. 842  RESOLUTION 25
A JOINT RESOLUTION PROVIDING FOR A JOINT SESSION OF THE SENATE AND HOUSE OF REPRESENTATIVES AT 12:00 NOON, TUESDAY, APRIL 28, 1981; INVITING HIS EXCELLENCY, GOVERNOR JAMES B. HUNT, JR., TO ADDRESS THAT SESSION CONCERNING THE STATE HIGHWAY SYSTEM; AND PROVIDING FOR CONSIDERATION AT THAT SESSION OF CONFIRMATION OF THE GOVERNOR’S APPOINTMENTS TO THE STATE BOARD OF EDUCATION.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Senate and House of Representatives shall convene in joint session in the House Chamber at 12:00 noon, Tuesday, April 28, 1981, for the purposes set out in Sections 2 and 3.

Sec. 2. A committee of two members of the Senate and two members of the House of Representatives shall be appointed by the presiding officers of the respective houses. The committee shall invite Governor James B. Hunt, Jr., to deliver a message concerning the State highway system to the joint session of the General Assembly at 12:00 noon on April 28, 1981. The text of the Governor’s message shall be entered in the appendices of the Senate and House journals for the 1981 session.

Sec. 3. The Senate and House of Representatives shall remain in joint session following the Governor’s address on April 28, to consider confirmation of the Governor’s appointments to the State Board of Education. On the question of confirmation of each appointee, the roll of the Senate shall be called and the vote taken, then the roll of the House shall be called and the vote taken, after which the vote in each house on that appointee shall be tabulated and announced. Approval of a majority of each house shall be required for confirmation. Other proceedings in the joint session shall be governed by the rules of the House of Representatives insofar as those rules are applicable. In the event of failure to confirm one or more appointments, the Governor shall be immediately notified and shall be requested to submit replacement appointments within two days after receipt of notice of the failure to confirm.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of April, 1981.

H. R. 580  RESOLUTION 26
A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JOSEPH LEONARD BRIGHT, A FORMER MEMBER OF THE NORTH CAROLINA GENERAL ASSEMBLY.

Whereas, Joseph Leonard Bright was born in Vanceboro, North Carolina, on January 6, 1925, and graduated from Farm Life High School in 1943; and

Whereas, as a young man, Joseph Leonard Bright attained the rank of Eagle Scout and was later elected to the Order of the Arrow; and

Whereas, Joseph Leonard Bright attended the United States Merchant Marine Academy, served as an officer of the Maritime Service during World War II, and later attended Kings Business College in Raleigh, North Carolina; and
Whereas, Joseph Leonard Bright was co-owner of Bright-Morris Ford in Scotland Neck for thirteen years until he returned to Vanceboro, in 1966, when he began operating Bright Chevrolet in Bayboro, North Carolina; and

Whereas, in 1970 Joseph Leonard Bright was elected to the North Carolina House of Representatives to represent the Third House District, encompassing Carteret, Craven, Jones, Lenoir, and Pamlico Counties, and during his service he was an active spokesman for his district, was appointed Chairman of the Commercial Fisheries Committee, and also was a member of numerous other legislative committees; and

Whereas, Joseph Leonard Bright was a member of numerous civic and charitable organizations, including the Vanceboro United Methodist Church, the Vanceboro Masonic Lodge, and the New Bern Scottish Rite and Sudan Temple; and

Whereas, Joseph Leonard Bright died December 4, 1979, leaving his wife, one son and one daughter; and

Whereas, Joseph Leonard Bright was a respected statesman, a devoted family man, a true Christian, and an individual highly dedicated to the advancement of his community; and

Whereas, the General Assembly, in warm memory and admiration, wishes to recognize the contributions of Joseph Leonard Bright to the well-being and betterment of Craven County, Eastern North Carolina and the entire State; and

Whereas, the General Assembly also wishes to express to his widow and children sincere gratitude and appreciation for his services;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly honors the memory of Joseph Leonard Bright and expresses the deep gratitude and appreciation of this State and its citizens for his life and service to North Carolina.

Sec. 2. A certified copy of this resolution shall be transmitted by the Secretary of State to the family of Joseph Leonard Bright.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of May, 1981.

S. R. 42 RESOLUTION 27

A JOINT RESOLUTION HONORING THE LIVES AND MEMORIES OF MISS M. LILLIAN BREMER AND MISS LILA CLARE NEWMAN BY RECOGNIZING CHINA PAINTING AS A FINE ART AND DECLARING JUNE AS NORTH CAROLINA PORCELAIN ART MONTH.

Whereas, Miss M. Lillian Bremer graduated from Wesleyan College in Macon, Georgia with a major in Art and studied for four years at Womens Art School in Cooper Union, New York and for one year at the New York School of Fine Art; and

Whereas, Miss Bremer taught art in the Alabama public schools for one year and at Martha Washington College for 10 years; and

Whereas, Miss Bremer worked with the Lysette Group in Georgia, a group noted for decorating porcelain with gold; and

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Whereas, from 1920 to 1930, Miss Bremer was head of the Art Department at Queens College, a department in which China Painting played a large role and was considered a Fine Art; and

Whereas, Miss Bremer died on November 20, 1944, and is buried at Westview Cemetery in Atlanta, Georgia; and

Whereas, Miss Lila Clare Newman was born in October, 1892; and

Whereas, Miss Newman taught the art of China Painting (Porcelain Art) from 1925 to 1963; and

Whereas, Miss Newman was on the faculty of Elon College; and

Whereas, Miss Newman died on November 7, 1974; and

Whereas, the art of painting on porcelain is an ancient art which has been recognized as a fine art by all of the world's great civilizations and which has provided a medium for the preservation of history and culture throughout the ages; and

Whereas, this art form has produced works of exquisite beauty through a combination of great skills, intensive training and great artistic ability; and

Whereas, the North Carolina Organization of Porcelain Artists is a fast growing organization which is currently comprised of seven clubs under the World Organization and which currently has over 240 members; and

Whereas, the North Carolina porcelain artists are artists dedicated to promoting china painting as a fine art and to educating and enhancing the lives of North Carolinians by means of their art; and

Whereas, in 1980, when the North Carolina State Fair placed the work of these artists in the Fine Art Department, the North Carolina porcelain artists from all over the State displayed 62 beautiful works of art; and

Whereas, in recognition of the contribution porcelain artists have made to American culture, the United States Senate and the House of Representatives passed resolutions and President Carter signed a declaration making July, 1980, National Porcelain Art Month;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly of North Carolina honors the lives and memories of Miss M. Lillian Bremer and Miss Lila Clare Newman, distinguished artists and teachers who specialized in China Painting, by recognizing porcelain painting as a fine art and declaring June to be North Carolina Porcelain Art Month.

Sec. 2. The Secretary of State is directed to send a certified copy of this resolution to each of the seven clubs in this State belonging to the World Organization of China Painters.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of May, 1981.

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Whereas, Western North Carolina produces a significant crop of apples each year; and

Whereas, the United States Department of Agriculture’s Food Safety and Quality Service buys apples each year for use in the child nutrition and elderly feeding programs; and

Whereas, last year the United States Department of Agriculture purchased two million one hundred sixty thousand one hundred forty-four dollars ($2,160,144) worth of apples; and

Whereas, the United States Department of Defense, recognizing the superior quality of North Carolina apples, has maintained a purchasing office in North Carolina since the 1940’s and during the months of August, September, and October, annually purchases hundreds of thousands of bushels of the high quality North Carolina apples for distribution to our Armed Forces at home and on station throughout the world; and

Whereas, North Carolina apple growers not only failed to receive any of these contracts but were effectively prevented from submitting bids for them because the North Carolina apple season begins in early August and ends in late October, while the Department of Agriculture does not accept bids until late October; and

Whereas, school systems in every region of this State serve non-North Carolina apples due to this late bid policy of the Department; and

Whereas, the General Assembly believes that North Carolina apple growers should have the same opportunity as other state growers to sell their apples to the federal government:

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly urges the United States Department of Agriculture to change the date on which it lets bids and accepts bids for apples to on or about August 15.

Sec. 2. The Secretary of State shall send copies of this resolution to all members of the North Carolina delegation in the United States Senate and House of Representatives, to the United States Department of Agriculture, and to President Ronald Reagan.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of May, 1981.
A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF CARLISLE WALLACE HIGGINS, A FORMER MEMBER OF THE GENERAL ASSEMBLY AND ASSOCIATE JUSTICE OF THE SUPREME COURT OF NORTH CAROLINA.

Whereas, Carlisle Higgins was a lifelong North Carolinian, whose achievements and public service are a credit to this State; and
Whereas, he was born in Alleghany County in 1889 and died in 1980; and
Whereas, he graduated from The University of North Carolina at Chapel Hill with A.B. and LL.D. degrees; and
Whereas, he served his State as a Representative from Alleghany County in the General Assembly of 1925 and as a State Senator from the Twenty-ninth Senatorial District in the General Assembly of 1929; and
Whereas, he served his region as Solicitor of the Eleventh Judicial District from 1930 to 1934 and as United States Attorney of the Middle District of North Carolina from 1934 to 1945; and
Whereas, he served his country as Assistant Chief and Acting Chief of the International Prosecution Section at the International Military Tribunal in Tokyo from 1945 to 1947; and
Whereas, he served his State as an Associate Justice of the Supreme Court of North Carolina from 1954 to 1974, longer than any other Associate Justice in the history of the State; and
Whereas, he was a respected attorney and jurist dedicated to the administration of justice;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly recognizes the dedication of Carlisle Higgins and expresses its gratitude for his long and exemplary service to the people and the State of North Carolina.

Sec. 2. The General Assembly joins with the family and friends of Carlisle Higgins in mourning the loss of one of the State's most respected citizens.

Sec. 3. The Secretary of State shall send a certified copy of this resolution to Carlisle Higgins's family.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of May, 1981.
H. R. 863  RESOLUTION 30
A JOINT RESOLUTION TO EXPRESS THE DEEPEST CONCERN OF THE
GENERAL ASSEMBLY OVER THE RECENT MURDERS OF BLACK
CHILDREN IN ATLANTA, GEORGIA.

Whereas, the recent wave of tragic deaths of black children in Atlanta,
Georgia, has caused the citizens throughout the United States to become
extremely concerned for the safety and well-being of the children of the Atlanta
area; and

Whereas, although national, state and local police and law enforcement
agencies and concerned citizens and volunteers have made concerted efforts to
apprehend the criminal or criminals involved in these heinous crimes, the
solution to these murders still does not appear to be imminent; and

Whereas, the State of North Carolina would like to be of assistance to our
sister State of Georgia and to the City of Atlanta in this time of crisis;

Now, therefore, be it resolved by the House of Representatives, the Senate
concurring:

Section 1. The members of the General Assembly hereby express their
deepest concern over the recent murders of black children in Atlanta, Georgia.

Sec. 2. The members of the General Assembly request the Governor of
North Carolina to offer and provide any assistance at his disposal to the
appropriate officials in charge of the murder investigations in Atlanta in order
that the State of North Carolina can be of service in this time of tragedy.

Sec. 3. The members of the General Assembly hereby memorialize other
states to make similar offers of assistance so that the very best manpower,
equipment and skills can be marshalled in order to solve and stop these
senseless murders.

Sec. 4. The Secretary of State is directed to deliver certified copies of
this resolution to the Honorable James B. Hunt, Jr., Governor of the State of
North Carolina, and the Governor and legislative body of each state of the
United States except North Carolina.

Sec. 5. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of
May, 1981.

H. R. 984  RESOLUTION 31
A JOINT RESOLUTION PROVIDING FOR A JOINT SESSION OF THE
SENATE AND HOUSE OF REPRESENTATIVES TO VOTE ON
CONFIRMATION OF APPOINTMENTS OF THE GOVERNOR TO
MEMBERSHIP ON THE NORTH CAROLINA UTILITIES
COMMISSION.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Senate and House of Representatives shall convene in
joint session in the House Chamber at 2:00 p.m., Wednesday, May 13, 1981, to
vote on confirmation of appointments by the Governor to the North Carolina
Utilities Commission.

Sec. 2. On the question of confirmation of each appointee, the roll of the
Senate shall be called and the vote taken, then the roll of the House shall be
called and the vote taken, after which the vote in each house on that appointee
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shall be tabulated and announced. Approval of a majority of each house shall be required for confirmation. Other proceedings in the joint session shall be governed by the Rules of the North Carolina House of Representatives insofar as those rules are applicable.

Sec. 3. In the event of failure of confirmation of one or more appointments, the Governor shall be immediately notified and shall be requested to submit replacement appointments within two days after receipt of notice of failure to confirm.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of May, 1981.

S. R. 478  RESOLUTION 32
A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF LINWOOD BRANTON HOLLOWELL, SENIOR.

Whereas, Linwood Branton Hollowell, Sr., was born in Kinston, North Carolina on November 21, 1904, to Linwood and Virginia Branton Hollowell, and died January 13, 1981; and

Whereas, he graduated from Durham City High School, and received his undergraduate and law degrees from Duke University; and

Whereas, he began the practice of law in 1929 in Gastonia where he lived for the rest of his life, remaining an active member of the bar until his death, at which time he was senior member of the firm of Hollowell, Stott, Hollowell, Palmer and Windham; and

Whereas, he early established himself as an outstanding leader, serving as Chairman of the Gaston County Board of Elections from 1934 through 1946, as Chairman of the Gaston County Democratic Executive Committee from 1948 through 1956, as Judge of the Gastonia Municipal Court from 1945 through 1948, and as President of the Gastonia Kiwanis Club in 1938; and

Whereas, he was elected to the North Carolina Senate for two terms, serving from 1961 through 1965; and

Whereas, he never ceased to aid his State and his community, remaining active until his death by serving as officer and director of various business, civic and charitable organizations and as a member of the First United Methodist Church from 1929 on, serving as a member of its administrative board and as a trustee; and

Whereas, his State and his community are most grateful for his many years of service and leadership;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly recognizes the achievements of Linwood Branton Hollowell, Sr., and expresses its gratitude for his exemplary service to the people and State of North Carolina.

Sec. 2. The General Assembly expresses its sympathy to the family and friends of Linwood Branton Hollowell, Sr., for the loss of this distinguished citizen.

Sec. 3. The Secretary of State shall submit a certified copy of this resolution to the family of Linwood Branton Hollowell, Sr.

Sec. 4. This resolution is effective upon ratification.

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In the General Assembly read three times and ratified, this the 19th day of May, 1981.

S. R. 480  RESOLUTION 33
A JOINT RESOLUTION ENCOURAGING THE DEPARTMENT OF CORRECTION TO EXAMINE ITS POLICIES AND PROCEDURES AS THEY MAY HAVE IMPACT UPON THE PRISON POPULATION.

Whereas, there has been in recent years a marked increase in the prison population, demonstrated by the official records of the North Carolina Department of Correction as follows:

January 1, 1975-11,997; January 1, 1977-13,262;
January 1, 1979-13,353; January 1, 1981-15,484;
April 7, 1981-16,303; and

Whereas, consideration of the figures set forth above reflect an accelerating rate of increase; and

Whereas, the General Assembly recognizes the duty of the Department of Correction to take custody and control of those lawfully committed to it by judicial process, and it further recognizes that accelerated increases in inmate population may have a direct impact upon the ability of the North Carolina Department of Correction to maintain its standard of programs and services to the inmate population and upon the costs of providing such programs and services by the people of the State of North Carolina to the inmate population in light of the current economy of this State and nation; and

Whereas, the General Assembly recognizes that the Department of Correction has, under its statutory authority, promulgated rules and regulations governing the conduct of inmates, and the general management of its prisons, which includes, but are not limited to, regulations pertaining to criteria for credits for good behavior, gain time credits for work performed, criteria for promotion and demotion in custody level, and classification of individual inmates, all of which bear upon the orderly administration of the prison system;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the General Assembly encourages the Department of Correction, and its divisions, the Division of Prisons, the Division of Adult Probation and Parole, and the Parole Commission, to conduct an immediate review of its policies and procedures to determine whether any modifications should be made to respond to the increasing prison population and to take such action as it may deem proper within the context of applicable law and policy to respond to the increasing prison population.

Sec. 2. This resolution is effective upon adoption.

In the General Assembly read three times and ratified, this the 19th day of May, 1981.
H. R. 958  RESOLUTION 34

A JOINT RESOLUTION SETTING THE DATE FOR THE HOUSE OF REPRESENTATIVES AND SENATE TO ELECT MEMBERS OF THE STATE BOARD OF COMMUNITY COLLEGES.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. Pursuant to G.S. 115D-2.1(b)(4)f, the House of Representatives and Senate shall elect members to the State Board of Community Colleges during the regular sessions of the two houses held on Tuesday, June 2, 1981. At that time each house shall elect one member to the board, for a six-year term beginning July 1, 1981. Each house shall follow the procedure set out in G.S. 115D-2.1 for the nomination and election of members of the board. With the approval of a majority of those voting, either house may use secret ballots as part of the process of choosing a member, provided the election of the member shall be by electronic voting as required by G.S. 115D-2.1.

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of May, 1981.

H. R. 1045  RESOLUTION 35

A JOINT RESOLUTION HONORING THE LIFE AND SERVICE OF SAMUEL A. TROXELL, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Samuel A. Troxell, a Republican from Rowan County who represented the Thirty-fourth District in the House of Representatives in the 1967 and 1969 Sessions of the General Assembly was born in 1892 and died in 1978.

Samuel Troxell was born and educated in Pennsylvania, graduating from the Lancaster Theological Seminary in 1919, then travelled the United States for the Reformed Church. Before retiring from the ministry in 1945 he was a pastor of the Grace Reformed Church in Baltimore for 16 years and was a member of the committee that formed the Evangelical and Reformed Church, now the United Church of Christ.

Samuel Troxell began a career in life insurance in 1937 with the John Hancock Insurance Company. In 1940-41 he led in lives insured and in 1945-53 he made the Million Dollar Club.

After moving to North Carolina, Samuel Troxell was active in the political and civic affairs of his community. In addition to his service in the General Assembly, he served five years as Mayor of Rockwell, was on the Board of Directors of the Salisbury-Rowan United Fund, and was an officer in the Civitan Clubs of North Carolina. For 30 years he was active in church supply work for local churches in the Mount Pleasant area.

Samuel Troxell exemplified the good citizen who served his community and State without great fanfare but with the dedication and honesty that makes democracy work and that has provided North Carolina with good government for so many years;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

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Section 1. The General Assembly of North Carolina recognizes the life and achievements of Samuel A. Troxell and states its appreciation for his service to North Carolina and to his community.

Sec. 2. The General Assembly extends its sympathy to the family of Samuel A. Troxell and by this resolution notifies them that his service does not go unrecognized.

Sec. 3. The Secretary of State shall send a copy of this resolution to the family of Samuel A. Troxell.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1981.

H. R. 1046     RESOLUTION 36

A JOINT RESOLUTION HONORING THE LIFE AND SERVICE OF
CLAUDE UMSTEAD PARRISH.

Claude Umstead Parrish, a Republican Senator from Rowan County who represented the Twenty-third District, was born in Durham, North Carolina, on May 16, 1904. The son of Julius Gaither Parrish and Fannie Woodson Paschall, he attended public school in Durham.

After four years serving his country in the United States Army he began a bakery career in High Point, North Carolina, in 1926. He built Parrish Bakeries, Inc., headquartered in Salisbury, North Carolina, with branches in Tennessee, Virginia, Georgia, and Florida.

After 20 years at the helm of this successful business, he turned to public service and was elected to the North Carolina General Assembly serving in the Senate during the 1967 Session.


He was a loving husband to Lessie Bell McFarland of Polk County whom he wooed and won and an adoring father of four daughters, Claudia Louise, Janet Marie, Betty Jean, and Lessie Gaynelle.

He was an active member of the Masons, Shriners, and the Salisbury Kiwanis and served as president of the Salisbury Meat Center. He raised game chickens as a hobby and business;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly recognizes the achievements and service of Claude Umstead Parrish and expresses its appreciation for this contribution to his community and the State.

Sec. 2. The General Assembly extends its deepest sympathy to the family and friends of Claude Umstead Parrish.

Sec. 3. The Secretary of State shall send a copy of this resolution to the family of Claude Umstead Parrish.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1981.

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A JOINT RESOLUTION DIRECTING THE MENTAL HEALTH STUDY COMMISSION TO STUDY THE INVOLUNTARY COMMITMENT LAW.

Whereas, in 1979 the Mental Health Study Commission presented the Governor and the General Assembly with a report which contained changes in the involuntary commitment law, which changes were incorporated into legislation enacted into law by the 1979 General Assembly; and

Whereas, there has been adequate time to gather sufficient data on the admissions of involuntarily committed people to permit a valid assessment of the impact of the 1979 changes; and

Whereas, the general public continues to express concern over the commitment laws, particularly those related to the discharge of involuntarily committed people; and

Whereas, the Mental Health Study Commission has been extended until June 30, 1983, by the 1981 General Assembly;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the Mental Health Study Commission establish as a priority the study of the involuntary commitment law as found in Article 5A, Chapter 122 of the General Statutes. In addition to any other issues the Commission deems pertinent, the Commission shall consider:

(1) The impact of the 1979 changes in the involuntary commitment law;

(2) The policies and procedures for the release of involuntarily committed people, particularly those who are committed as a result of a violent act; and

(3) The policies and procedures for the commitment of people who are charged with a crime and found either incapable of proceeding to trial or not guilty by reason of insanity.

Sec. 2. The Mental Health Study Commission is directed to request, receive and review data and testimony from both public and private sources, from the medical and legal communities and the general public. The Criminal Code Commission and other State agencies which have exhibited an interest in the subject of involuntary commitment laws are encouraged to work with the Mental Health Study Commission in this study.

Sec. 3. The Mental Health Study Commission shall present its final report incorporating its recommendations and proposed legislation to the 1983 General Assembly, and may present an interim report to the 1981 General Assembly, Second Session, if a second session is held.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of June, 1981.
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H. R. 1227  RESOLUTION 38
A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF THOMAS J. PEARSALL.

Whereas, Thomas J. Pearsall was born February 11, 1903, in Rocky Mount, North Carolina, graduated from Rocky Mount High School and received both his undergraduate and his law degree from The University of North Carolina at Chapel Hill; and

Whereas, he served with distinction in the North Carolina General Assembly from 1941 to 1947, serving as Speaker of the House of Representatives during the 1947 Session; and

Whereas, he was interested and active in community and State affairs throughout his entire professional life, serving as a member of the Chamber of Commerce, as a member of such various boards and commissions of statewide importance as the Roanoke Historical Association, the North Carolina State Agriculture Foundation, the North Carolina A & T University Board of Trustees, The University of North Carolina Board of Governors, and as a leading force in the founding of North Carolina Wesleyan College in Rocky Mount; and

Whereas, he was appointed to many other positions which enabled him to serve the people of North Carolina, in particular, to the chairmanship of the "Pearsall Commission" which completed plans for the total integration of North Carolina schools during the Hodges Administration; and

Whereas, his leadership was largely responsible for greatly increasing opportunities for blacks in North Carolina; and

Whereas, former Governor Terry Sanford said of him that "he had imagination and vision, compassion and concern and, above all, courage to do and say what he thought in difficult times, and the North Carolina Press said of him that he never wanted one school door closed, one tuition grant withheld or one black child hurt and that he never acted contrary to what he believed best; and

Whereas, he is survived by his widow, Elizabeth Braswell Pearsall and two sons, Mack B. Pearsall of Rocky Mount and Thomas J. Pearsall, Jr., of Raleigh;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly of North Carolina remember and honor Thomas J. Pearsall for his long and faithful service to all the people of North Carolina, and for his outstanding leadership in difficult times, and express its sympathy to his family and friends.

Sec. 2. A certified copy of this resolution shall be sent to Thomas J. Pearsall's family.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of June, 1981.
H. R. 1011  RESOLUTION 39
A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF PAUL JACKSON STORY.

Whereas, Paul Jackson Story, the son of Rev. James Cameron Story and Zahida Reynolds Story, was born in Sparta on October 21, 1904, and five years later, moved to Marion where his father was pastor of the First Presbyterian Church; and

Whereas, Paul Jackson Story graduated from Marion High School at age 15 and from Davidson College in 1924 and was a school teacher and later a principal for five years starting when he was 19 years old; and

Whereas, Paul Jackson Story finished three years of law school at The University of North Carolina at Chapel Hill in two years and three months, receiving his law degree in August 1931; and

Whereas, Paul Jackson Story was admitted to the North Carolina State Bar on August 18, 1930, one year before graduation from law school, and opened a law office in Marion on September 31, 1931, where he practiced for 50 years; and

Whereas, Paul Jackson Story was a deacon and elder in the First Presbyterian Church in Marion where he taught the men’s Bible class for many years and where he was superintendent of the Sunday school for eight years; and

Whereas, Paul Jackson Story was a past master of Mystic Tie Lodge No. 237, A.F. & A.M., the district deputy grand master of the 59th Masonic District and a member of the committee on appeals of the Grand Lodge of North Carolina and a director of the Kiwanis Club; and

Whereas, Paul Jackson Story was instrumental in the establishment of McDowell Technical College and served on its board of trustees; and

Whereas, Paul Jackson Story represented McDowell County in the North Carolina House of Representatives during the 1963 and 1965 Sessions of the General Assembly; and

Whereas, Paul Jackson Story died on April 4, 1981, and is survived by his wife, the former Helen Goldsmith of Marion, a daughter and a son;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly of North Carolina expresses its high regard for and appreciation of the life and service of Paul Jackson Story and joins his family and his friends, neighbors and associates in the Town of Marion, in McDowell County and throughout the State in mourning the loss of a valuable and devoted citizen and public servant and a good and honorable man.

Sec. 2. The Secretary of State is directed to deliver a certified copy of this resolution to Mrs. Helen Goldsmith Story.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of June, 1981.
H. R. 1112  RESOLUTION 40
A JOINT RESOLUTION HONORING JOHN W. COVINGTON, JR., A FORMER MEMBER OF THE GENERAL ASSEMBLY.
Whereas, John W. Covington, Jr., was born in Rockingham on October 22, 1917, and died on May 12, 1981; and
Whereas, John W. Covington, Jr., attended the public schools of Richmond County, earned a B. A. degree at Duke University in 1938, graduated from the North Carolina Bankers School in Chapel Hill in 1946, and studied finance at the Harvard Business School; and
Whereas, John W. Covington, Jr., began his banking career at the age of 20, and subsequently became president of the Farmer’s Bank & Trust Company in Rockingham; and
Whereas, John W. Covington, Jr., served his country in the United States Naval Reserve from 1942-46; and
Whereas, John W. Covington, Jr., was a dedicated servant of both his community and the State, serving on the city council of Rockingham from 1955-63, Mayor of Rockingham from 1967-68, and in the North Carolina House of Representatives in the 1969 and 1979 sessions; and
Whereas, John W. Covington, Jr., was active throughout his life in the Methodist Church, and was involved in civic affairs through his membership in the American Legion, the Veterans of Foreign Wars and the Shriners;
Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The North Carolina General Assembly expresses its high regard for the life and service of John W. Covington, Jr., and mourns the loss of such an able and devoted public servant.
Sec. 2. The Secretary of State shall send a certified copy of this resolution to the family of John W. Covington, Jr.
Sec. 3. This resolution is effective upon ratification.
In the General Assembly read three times and ratified, this the 15th day of June, 1981.

S. R. 635  RESOLUTION 41
A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF LORIMER W. MIDGETT, FORMER MEMBER OF THE GENERAL ASSEMBLY.
Whereas, Lorimer W. Midgett was born on February 9, 1911, in the village of Mann’s Harbor in Dare County, North Carolina and died on April 19, 1980; and
Whereas, he was educated at The University of North Carolina at Chapel Hill from which he was graduated in 1932 as an honor graduate; and
Whereas, he served his country from 1943 to 1946 with honor and gallantry as a Naval officer attaining the rank of Commander in a Naval Intelligence unit assigned to the Pacific Theater, including an assignment as Chief of Intelligence for the Island of Maui in the Hawaiian Islands; and
Whereas, he served the people of North Carolina with distinction as a member of the North Carolina House of Representatives in the 1943 Session of the General Assembly and as a member of the Senate in the 1947 Session; and
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Whereas, for 33 years Lorimer W. Midgett served as Chairman of the First Congressional District Democratic Annual Conventions, uniting and promoting strong leadership for the 21 counties of Northeastern North Carolina; and
Whereas, his long and distinguished career of public service included membership on the Pasquotank County Board of Commissioners, The Elizabeth City Chamber of Commerce, the United States Chamber of Commerce, the North Carolina Department of Conservation and Development, and the State Banking Commission; and
Whereas, he served his community as President of the Industrial Bank and Trust Company, Vice-President of the Albemarle Savings and Loan Association, and as Chairman of the Elizabeth City Bank Board of Peoples Bank and Trust Company;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly of North Carolina honors the life and service of its former member Lorimer W. Midgett and expresses its gratitude for his service to the people of North Carolina.

Sec. 2. The General Assembly of North Carolina expresses its deepest sympathy to the family of Lorimer W. Midgett for the loss of this distinguished citizen.

Sec. 3. The Secretary of State shall transmit a certified copy of this resolution to his widow, Mrs. Margaret White Midgett.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of June, 1981.

H. R. 930

RESOLUTION 42

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF VICTOR S. BRYANT.

Whereas, Victor S. Bryant was born in Durham in 1898 and died in 1980; and

Whereas, he was educated in the Durham public schools, at The University of North Carolina at Chapel Hill, and at the University's law school; and

Whereas, he remained a lifelong advocate for The University of North Carolina, being remembered by one newspaper as "one of the heroes of higher education in North Carolina" for his 40 years service on the UNC Board of Trustees and the University Board of Governors; and

Whereas, he served as an influential member of the North Carolina House of Representatives for five terms between 1923 and 1941, as was evidenced by his chairmanship of the Appropriations Committee in the 1935 session, his chairmanship of the Finance Committee in the 1939 and 1941 sessions, and his membership on the Advisory Budget Commission in 1935 and in 1939 through 1941; and

Whereas, his legislative, legal, and political skills were recognized often during his life, as was illustrated by his selection to chair two different governors' study commissions on higher education and to chair the study commission which in 1935 recommended the structure for the present alcohol beverage control system in North Carolina; and

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Whereas, he also contributed to the State in a variety of other civic, legal and political roles, including service as President of the Kiwanis Club, as Secretary of the Democratic Executive Committee, as President of the North Carolina Symphony Society, and as a Presbyterian elder; and

Whereas, his accomplishments have already been partially recognized by the honorary degrees awarded him by North Carolina State University and by The University of North Carolina at Chapel Hill, and by the awarding to him of the first University Award, the highest recognition which can be bestowed by the University Board of Governors; and

Whereas, his was a family long dedicated to the profession of law; his father and father in-law before him and his two sons, all elected to practice this craft; and

Whereas, he was a Sunday school teacher of note, a patriotic speaker with few equals, a leader in the old Durham machine gun company of the National Guard, a cultivator of roses and camellias. There can be no doubt that he felt that God expressed himself in the beauty of trees and flowers; and

Whereas, he was keen on sailing, a lover of tall trees and the out-of-doors, a devotee to the ideals of St. Francis of Assisi, a sweetheart always to his wife Elizabeth, and an inspiration to his daughter Betsy and his sons Victor and Alfred; and

Whereas, he was a charmer of children, a soft-spoken but powerful man, and a champion always of integrity and preparation; and

Whereas, possibly no person was ever more considerate of his fellow man, more diligent in his search for truth, more loyal to his University and profession and more reverent to his God. He possessed a genius for friendship, a zest for good music and good manners, and he possessed admirable courage and intellectual honesty; and

Whereas, the General Assembly wishes to join in recognizing the contributions made to the University, the General Assembly, and the State as a whole by this outstanding North Carolinian;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly of North Carolina recognizes the many contributions made to the State of North Carolina, and especially to its University, by its former member Victor S. Bryant. As stated by his hometown newspaper: "His list of achievements is long, his accolades lengthy. There are few men in this State's history who have contributed as much..."

Sec. 2. The General Assembly joins in mourning the passing of Victor S. Bryant and expresses its sorrow at the loss of this distinguished citizen of the State.

Sec. 3. The General Assembly expresses its deep sympathy to the family of Victor S. Bryant for this loss.

Sec. 4. The Secretary of State shall transmit a certified copy of this resolution to the family of Victor S. Bryant.

Sec. 5. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1981.
H. R. 1203  RESOLUTION 43
A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF DR. ENGLISH E. JONES.

Whereas, Dr. English E. Jones was born on October 22, 1921, and graduated from Pembroke High School in 1942; and
Whereas, Dr. English E. Jones attended Western Kentucky University and received his B.S. Degree in 1948 from the University of Kentucky, and received his Masters Degree in Science from North Carolina State University in 1957; and
Whereas, Dr. English E. Jones was honored in 1965 by Wake Forest University and presented the Doctor of Laws Degree and in 1981 Pembroke State University bestowed upon him the honor of Doctor of Humanities; and
Whereas, Dr. English E. Jones served in the Army Air Force during World War II and spent three years in the European Theatre of Operations; taught in the North Carolina Public Schools from 1948 until 1952; worked with the North Carolina State Extension Service from 1953 until 1956; was professor of Agricultural Science and Biology from 1956 until 1957; was Dean of Student Affairs and Administrative Assistant to the President from 1960 until 1962; and
Whereas, Dr. English E. Jones in 1962 became the first American Indian to become President of a four-year higher educational institution in the United States of America and held that position until 1969 at which time he became the Chancellor of that same institution, Pembroke State University; and
Whereas, Dr. English E. Jones was a member of numerous civic and charitable organizations including Board of Trustees of Baptist Children's Home of the Baptist State Convention, North Carolina Cancer Institute, Southeastern General Hospital and the Baptist Hospital in Winston-Salem, North Carolina; and
Whereas, Dr. English E. Jones died May 18, 1981, leaving his wife, two sons and one daughter; and
Whereas, Dr. English E. Jones was a respected educator, a devoted family man, a true Christian, and an individual highly dedicated to the advancement of the American Indian; and
Whereas, the General Assembly, in warm memory and admiration wishes to recognize the contributions of Dr. English E. Jones to the well-being and betterment of Robeson County, the State of North Carolina and the Nation; and
Whereas, the General Assembly also wishes to express to his widow and children their sincere gratitude and appreciation for his services;
Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly honors the memory of Dr. English E. Jones and expresses the deep appreciation of this State and its citizens for his life and service to North Carolina.

Sec. 2. A certified copy of this resolution shall be transmitted by the Secretary of State to the family of Dr. English E. Jones.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1981.

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S. R. 709  RESOLUTION 44
A JOINT RESOLUTION HONORING WILLIAM CRAWFORD “TOP” DALTON.

Whereas, William Crawford “Top” Dalton, a former member of the Sergeant-at-Arms staff, died May 22, 1981; and

Whereas, “Top” Dalton joined the Sergeant-at-Arms staff of the General Assembly in 1938, when former Governor Gregg Cherry was in the House; and

Whereas, “Top” Dalton served on the Sergeant-at-Arms staff of the House or Senate from 1938 until the 1981 Session of the General Assembly, and was one of the most efficient members of the Sergeant-at-Arms staff during this time; and

Whereas, “Top” Dalton read every bill that was introduced in either the House or Senate while he was a member of the staff and was well versed on their contents; and

Whereas, “Top” Dalton was loved, not only by the Sergeant-at-Arms staff, but by the members of the General Assembly and the entire staff;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly expresses its appreciation for the devoted and exemplary service of “Top” Dalton.

Sec. 2. The General Assembly extends its deepest sympathy to the family of “Top” Dalton.

Sec. 3. The Secretary of State is directed to send a certified copy of this resolution to the family of “Top” Dalton.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of June, 1981.

S. R. 684  RESOLUTION 45
A JOINT RESOLUTION HONORING FREDERICK DOUGLAS ALEXANDER, A FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Frederick Douglas Alexander was born in Charlotte, North Carolina on February 21, 1910, and died on April 3, 1980; and

Whereas, Frederick Douglas Alexander attended the elementary and secondary schools of the Charlotte School System, and received his bachelor’s degree from Lincoln University in Pennsylvania in 1931, and received honorary Doctor of Law degrees from Johnson C. Smith University and from Teamer School of Religion; and

Whereas, Frederick Douglas Alexander attacked and challenged discriminatory local political practices, and led Negroes, as delegates, into the Mecklenburg County Democratic Convention; and

Whereas, Frederick Douglas Alexander was the first Negro elected to the Charlotte City Council in the twentieth century, serving five terms, including one as Mayor Pro-Tem; and

Whereas, Frederick Douglas Alexander introduced the first anti-discrimination ordinance before the Charlotte City Council; and

Whereas, Frederick Douglas Alexander was elected to the North Carolina State Senate in November of 1974, representing Mecklenburg and Cabarrus
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counties, and was one of the first two Negroes elected to the State Senate in the twentieth century, and was reelected in 1976 and 1978, and served until the day of his death; and

Whereas, Frederick Douglas Alexander served as Chairman of the Senate Criminal Justice and Corrections Committee; and

Whereas, Frederick Douglas Alexander was a life member of the NAACP, and was a thirty-third degree Mason and a member of many other fraternal orders; and

Whereas, Frederick Douglas Alexander was a charter member of the University Park Baptist Church, serving on its Board of Trustees; and

Whereas, Frederick Douglas Alexander served on the Board of Directors of Johnson C. Smith University and the Charlotte Board of Wachovia Bank and Trust Company; and

Whereas, Frederick Douglas Alexander was quiet in manner, profound in thought, pleasant in appearance, and forceful in action; and

Whereas, throughout his adult life, Frederick Douglas Alexander was active in the religious, fraternal, civic, political, and educational affairs of the Charlotte community, with a special concern for fairness and justice in Charlotte, and across the State and Nation;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The North Carolina General Assembly expresses its high regard for the life and service of Frederick Douglas Alexander and mourns the loss of such an able and devoted public servant.

Sec. 2. The Secretary of State shall send a certified copy of this resolution to the family of Frederick Douglas Alexander.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1981.

H. R. 156

RESOLUTION 46

A JOINT RESOLUTION HONORING THE LIFE AND SERVICE OF WILLIAM M. FULTON.

William M. Fulton, a Republican from Burke County who represented the Thirty-ninth Representative District, was born in Kewanee, Illinois, on September 20, 1900, and died in Burke County on December 1, 1980. The son of Wilson C. and Elizabeth (McKinney) Fulton, he attended public school in Kewanee. After attending Virginia Military Institute from 1917 to 1918, he received his B.S. degree from Knox College in Galesburg, Illinois, in 1922, his M.A. degree from Iowa State University in 1930, and his J.D. from the University of Iowa School of Law in 1936.

He came to North Carolina from a northern state as a retired man who had completed his career as an attorney. He met and married Mary Atkins Fulton and settled in near Morganton in an unpretentious area known as Carbon City.

But it came to pass that the Republican Party of Burke County, none too apt at winning elections, was looking for a sacrificial lamb to run for the State House of Representatives, somebody to fill out the ticket.
Bill Fulton was not blind to the fact that an outlander had little chance of election, but he yielded to his belief that every citizen has a duty to society. He had never run for public office and had little concept of the promises and compromises with conscience that are part of the elective process. Thus, in innocence, or ignorance as his detractors would say, he went among the people, speaking briefly and listening carefully.

When people started calling him "Steamboat Bill" for no other reason than that his last name was the same as the inventor of the steamboat, Fulton adopted the appellation. His gesture at Republican rallies was that of pulling a rope such as might blow the whistle.

Nobody ever analyzed why Fulton was elected and reelected and reelected. He introduced no major legislation, but he didn't miss his committee meetings, and suffered through the interminable hours of hearings that are part of the legislative process. Less diligent Representatives came to trust his judgement which was based on in-depth knowledge of the issues. His quiet influence often decided critical roll calls while more eloquent members expounded their views on the floor of the House and changed not a vote.

To the folks back home, he was a man who helped them with the problems created by governmental bureaucracy. Although he took no polls to see which way the wind was blowing, he somehow consistently voted the will of his constituency.

His name is among those who are colorful in the memory of his colleagues. Let the record show that he was a decent, dedicated man, one of those who typifies American Democracy at its best.

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly recognizes the achievements of William M. Fulton and expresses its appreciation for his contribution to his community and the State.

Sec. 2. The General Assembly extends its deepest sympathy to the family and friends of William M. Fulton and shares in their grief.

Sec. 3. The Secretary of State shall send a copy of this resolution to William M. Fulton's widow, Mrs. Mary Atkins Fulton, and his children.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1981.

H. R. 819

RESOLUTION 47

A JOINT RESOLUTION MEMORIALIZING THE FEDERAL RESERVE BOARD TO SHIFT ITS POLICIES ON CREDIT.

Whereas, the year-long policy of credit restriction and high interest rates imposed on the United States by the Federal Reserve Board has caused an economic recession that has reduced the level of the nation's productive activity and the standard of living of our people; and

Whereas, the above policy has been a contributing factor in the reduction of our industrial production in steel, automobiles, rubber, plastics, petrochemicals, and other basic industries; and

Whereas, the same policy in agriculture has caused a reduction in farm incomes, leading to a wave of farm bankruptcies over the past year; and
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Whereas, the Federal Reserve policy has reduced home building since 1979, causing a doubling of unemployment in the industry and endangering the savings and loan industry;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly, motivated by the best interest of the population for which it is responsible, calls for the policies of the Federal Reserve to foster plentiful economical credit for manufacturing, farming and related productive enterprises.

Sec. 2. The Secretary of State shall transmit certified copies of this resolution to the President of the United States, the Speaker of the House of Representatives, the President of the United States Senate, members of the North Carolina delegation to the Congress of the United States, and the Chairman of the Federal Reserve Board in order that they may be apprised of the sense of this body.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1981.

H. R. 913   RESOLUTION 48

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF L. R. HARRILL BY RECOGNIZING THE NORTH CAROLINA 4-H HONOR CLUB DURING ITS GOLDEN ANNIVERSARY OF ACTIVE SERVICE TO 4-H AND YOUTH.

Whereas, L. R. Harrill was born in 1897 in the Town of Lattimore in Cleveland County; and

Whereas, L. R. Harrill was the first State 4-H Club Leader in North Carolina and served in that position from 1926 to 1963; and

Whereas, L. R. Harrill devoted his entire career to North Carolina’s 4-H Program; and

Whereas, L. R. Harrill received the Watauga Medal, the highest nonacademic honor granted by North Carolina State University; and

Whereas, L. R. Harrill died in April 1978, leaving a widow, Mrs. Laura W. Harrill, and two children; and

Whereas, in recognition of the life and memory of L. R. Harrill, it is fitting that the General Assembly of North Carolina recall that Mr. Harrill founded the 4-H Honor Club in 1931 with the following charter members: M. Edmund Aycock, Wayne; Boyce Brooks, Duplin; Lena Early (Howard), Iredell; Louise Elliott (Poplin), Stanly; Olive Jackson (Hunt), Pitt; Vernon James, Pasquotank; Julia Jones (Greene), Polk; Kathleen Mock (Craver), Davidson; Aaron Peele, Wayne; Sam Raper, Davidson; Ralph Suggs, Gaston; and Elton Whitley, Stanly; and

Whereas, the motto of the 4-H Honor Club is “Service”; and

Whereas, the original membership of twelve boys and girls has now grown to twelve hundred of North Carolina’s most outstanding 4-H members during the past half century; and

Whereas, the recent services of Honor Club members include daily assistance during the annual North Carolina 4-H Congress, participation as coaches and judges in a variety of 4-H events, recognition of the best Adult

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Volunteer 4-H Leaders as well as the leading Community Service 4-H Programs in each Agricultural Extension District every year, timely additions and improvements at the State’s 4-H Camps, and the establishment in cooperation with the State 4-H Office of the 4-H Collection in the Archives of D. H. Hill Library at North Carolina State University; and

Whereas, the General Assembly of North Carolina desires to honor L. R. Harrill by recognizing the past as well as the continuing services to 4-H and youth by the North Carolina 4-H Honor Club;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly of North Carolina expresses its high regard for and appreciation of the life and service of L. R. Harrill by recognizing the North Carolina 4-H Honor Club during its Golden Anniversary for continued, active service to the 4-H movement in this State. The General Assembly recognizes the North Carolina 4-H Honor Club’s contributions to the development of both rural and urban boys and girls into Tar Heel citizens with a commitment to community service, excellence and cooperation.

Sec. 2. A certified copy of this resolution shall be forwarded by the Secretary of State to the family of L. R. Harrill and to the President, North Carolina 4-H Honor Club, Office of 4-H and Youth, P. O. Box 5157, Raleigh, North Carolina 27650.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1981.

H. R. 1117 RESOLUTION 49

A JOINT RESOLUTION URGING THE CONGRESS OF THE UNITED STATES TO OPPOSE THE DEREGULATION OF THE PEANUT GROWING INDUSTRY.

Whereas, North Carolina is the nation’s fourth largest producer of peanuts, the crop contributing sixty-five million dollars ($65,000,000) to the State’s economy in 1980; and

Whereas, the present program of price supports administered by the U. S. Department of Agriculture is vital to the continued prosperity of the peanut growing industry in this State; and

Whereas, the deregulation of the peanut growing industry threatens to force out of the marketplace the small grower in favor of the large corporate producer/user of peanuts; and

Whereas, without the peanut price-support program it is likely that states such as Georgia and Alabama would benefit at the expense of this State due to climatic conditions and that large corporate producers would locate in those states; and

Whereas, the North Carolina Peanut Growers Association, the North Carolina Farm Bureau, and North Carolina Agriculture Commissioner James A. Graham, oppose the effort to deregulate the peanut growing industry;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:
Section 1. That the General Assembly urges the Congress of the United States to oppose the deregulation of the peanut growing industry through the elimination of peanut price supports.

Sec. 2. That the General Assembly recognizes the importance of the peanut growing industry to the economy of North Carolina and opposes any efforts that would harm this significant segment of the agricultural production of this State.

Sec. 3. That a copy of this joint resolution shall be mailed to each member of the United States House of Representatives and Senate representing North Carolina.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1981.

S. R. 644 RESOLUTION 50

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF ASBURY LEE PENLAND, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Asbury Lee Penland was born on December 12, 1891, in Hayesville, North Carolina, and died on May 20, 1981; and

Whereas, he taught in the Clay County School System for 36 years before retiring in 1957; and

Whereas, he served the people of North Carolina with distinction as a member of the North Carolina House of Representatives in the 1939 and 1941 Sessions of the General Assembly and as a member of the Senate in the 1945 Session while his father-in-law, Robert L. Herbert, served in the House; and

Whereas, his extensive community service included being Chairman of the Clay County Democratic Party, serving as a Trustee of Western Carolina University, and as a leader of the Western District United Methodist Church;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly of North Carolina honors the life and service of its former member Asbury Lee Penland and expresses its gratitude for his service to the people of North Carolina.

Sec. 2. The General Assembly of North Carolina expresses its deepest sympathy to the family of Asbury Lee Penland for the loss of this distinguished citizen.

Sec. 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Asbury Lee Penland.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1981.
H. R. 1251  RESOLUTION 51


Whereas, North Carolina's judicial divisions, superior court judicial districts, district court judicial districts and prosecutorial districts have been established by statutes that in most instances have existed for many years without change; and
Whereas, the boundaries of the present divisions and districts do not reflect recent population shifts, caseload growth, manpower needs, and other relevant considerations; and
Whereas, ad hoc and piecemeal adjustments in judicial division and judicial and prosecutorial district boundaries and in personnel allocations may not properly reflect the overall needs of the State's judicial system, and are in addition very expensive; and
Whereas, the North Carolina Courts Commission is charged by law with making continuing studies of the structure, organization, and personnel of the State's court system;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The North Carolina Courts Commission is directed to conduct a study of the adequacy and appropriateness of the current boundaries of the State's judicial divisions, judicial districts, prosecutorial districts, and the allocation of personnel within these divisions and districts, and make such recommendations with respect thereto to the General Assembly of 1983 as it deems desirable to facilitate the administration of justice in the State.

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of July, 1981.

H. R. 1357  RESOLUTION 52

A JOINT RESOLUTION MEMORIALIZING CONGRESS TO COMMEMORATE THE FOURTH OF JULY BY PASSING HOUSE JOINT RESOLUTION 282.

Whereas, the North Carolina General Assembly on May 16, 1783, passed a resolution commemorating the Fourth of July, and was the first State to do so; and
Whereas, the first Fourth of July celebration in the country was proclaimed by Governor Alexander Martin in 1783 as a result of that resolution; and
Whereas, Congress has never acted to formally proclaim the Fourth of July as Independence Day; and
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Whereas, U. S. Representative Ike Andrews has introduced House Joint Resolution 282 in the 97th Congress which would request the President to annually proclaim July 4 of each year as Independence Day;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring that:

Section 1. The Congress is urged to pass House Joint Resolution 282 as soon as possible.

Sec. 2. Copies of the resolution shall be sent by the Secretary of State to each member of Congress from North Carolina.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of July, 1981.

S. R. 648

RESOLUTION 53

A JOINT RESOLUTION HONORING THE LIFE AND WORK OF PAUL GREEN, NORTH CAROLINA’S FORMER DRAMATIST LAUREATE.

Whereas, Paul Green was born in 1894 on a farm near Lillington in Eastern North Carolina, the son of William Archibald and Betty Lorine (Byrd) Green, married dramatist Elizabeth Atkinson Lay, and died May 4, 1981; and

Whereas, Paul Green graduated from Buies Creek Academy in 1914, received his A.B. from The University of North Carolina in 1921, and did graduate work at The University of North Carolina and Cornell University; and

Whereas, Paul Green served as a second lieutenant in the 105th Engineers in the American Expeditionary Force in the First World War; and

Whereas, Paul Green was a member of Phi Beta Kappa; and

Whereas, Paul Green was an Instructor and Associate Professor in Philosophy at The University of North Carolina from 1923 to 1939, a Professor in the Dramatic Arts Department from 1939 to 1944 and a Visiting Professor in the Department of Radio-Television-Motion Pictures from 1962 to 1963; and

Whereas, Paul Green received honorary doctorates from: Western Reserve University (1941); Davidson College (1948); The University of North Carolina at Chapel Hill (1956); Berea College (1957); University of Louisville (1967); Campbell College (1969); North Carolina School of the Arts (1976); and Moravian College (1976); and

Whereas, Paul Green wrote numerous Broadway plays, including the Pulitzer Prize winning play In Abraham’s Bosom, The Field God, The No ‘Count Boy, Johnny Johnson, Roll Sweet Chariot, The House of Connelly, and Native Son; and

Whereas, Paul Green wrote numerous symphonic dramas, including The Lost Colony, The Highland Call, The Common Glory, Faith of Our Fathers, The 17th Star, Wilderness Road, The Founders, The Confederacy, The Stephen Foster Story, Cross and Sword, Texas, Trumpet in the Land, Drumbeats in Georgia, Louisiana Cavalier, We The People, and the Lone Star, and is known as the father of outdoor symphonic drama; and

Whereas, Paul Green wrote numerous other plays, novels, short stories, screenplays, poetry, lyrics, and music, and was our State’s dramatist laureate from 1979 until his death, and is our State’s most recognized dramatist; and
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Whereas, Paul Green received numerous awards and honors including North Carolina's Distinguished Citizen Award, the Freedom Foundation Medal, and the American Theater Association's Distinguished Man of Theater Award; and

Whereas, The University of North Carolina honored Paul Green by naming its new theater in his honor; and

Whereas, Paul Green received the Frank Porter Graham Award from the N.C. Liberties Union, and was an outspoken social reformer and civil rights advocate throughout his life;

Now, therefore be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly expresses its gratitude for the life, service and achievements of Paul Green and for his dedication to this State. The General Assembly acknowledges the tremendous contribution made by Paul Green in the field of outdoor symphonic drama as well as the traditional fields of dramatic art.

Sec. 2. The General Assembly expresses its deepest sympathy and regrets to the family and friends of Paul Green and shares in the loss suffered by all North Carolina citizens because of the death of one of its finest and most distinguished citizens.

Sec. 3. The Secretary of State shall send a certified copy of this resolution to the family of Paul Green.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of July, 1981.

H. R. 1358

RESOLUTION 54

A JOINT RESOLUTION AUTHORIZING THE LIEUTENANT GOVERNOR AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES TO APPOINT A LIAISON COMMITTEE TO WORK WITH THE DEPARTMENT OF COMMERCE CONCERNING THE EXPO '82 IN KNOXVILLE, TENNESSEE.

Whereas, the General Assembly has appropriated money for North Carolina's participation in the Expo '82 in Knoxville, Tennessee; and

Whereas, the General Assembly has conducted a study of the feasibility of such participation; and

Whereas, a great deal of interest has been expressed concerning the Expo '82 and North Carolina's role in the Expo;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Speaker of the House of Representatives shall appoint one member of the House of Representatives and the Lieutenant Governor shall appoint one Senator to act as a liaison committee with the Department of Commerce concerning North Carolina's participation in the 1982 World's Fair in Knoxville, Tennessee. Any costs incurred will be paid from the 1981-82 appropriation to the Department of Commerce for a North Carolina exhibition at the 1982 World's Fair.
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Sec. 2. The members of the General Assembly so appointed shall be reimbursed for travel and subsistence at the rates set out in G.S. 120-3.1.

Sec. 3. This resolution is effective upon ratification.
In the General Assembly read three times and ratified, this the 8th day of July, 1981.

H. R. 1140  RESOLUTION 55
A JOINT RESOLUTION DIRECTING A STUDY OF THE FEASIBILITY AND DESIRABILITY OF COMBINING ANNUAL VEHICLE INSPECTION WITH ANNUAL VEHICLE REGISTRATION.

Whereas, most motor vehicles registered in North Carolina are now registered annually in a month assigned by the Division of Motor Vehicles; and
Whereas, motor vehicles registered in North Carolina must be inspected on an annual basis; and
Whereas, it would be of considerable convenience to motor vehicle owners and to the public to have vehicles registered and inspected at approximately the same time;
Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Department of Transportation may undertake a study to determine the feasibility and desirability of having motor vehicles inspected and registered during the same month or at approximately the same time.

Sec. 2. The Department of Transportation shall submit a written report of its findings and recommendations to the General Assembly no later than January 15, 1982.

Sec. 3. Nothing herein shall be construed to obligate the General Assembly to make any appropriation to implement the provisions of this act.

Sec. 4. This resolution is effective upon ratification.
In the General Assembly read three times and ratified, this the 9th day of July, 1981.

H. R. 1240  RESOLUTION 56
A JOINT RESOLUTION DIRECTING THE SECRETARY OF TRANSPORTATION TO PREPARE RULES AND REGULATIONS REGARDING THE REMOVAL OF VEGETATION OBSCURING BUSINESSES AND LEGALLY ERECTED FORMS OF ADVERTISING.

Whereas, it is recognized by all citizens that the areas adjacent to the interstate and primary highway system should be controlled in order to protect the public investment in such highways, to promote the safety and recreational value of public travel, and to preserve the natural beauty of such areas; and
Whereas, the General Assembly has specifically enacted statutes designed to protect these adjacent areas and to enable businesses to erect and maintain certain buildings and forms of advertising along the highways; and
Whereas, the restricted right-of-way mowing widths have been reduced and are resulting in the establishment of woody plants on the portions of the right-of-way beyond that mowed to the extent that the plant growth is or will screen all or important parts of businesses and legally erected forms of advertising; and

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Whereas, the General Assembly recognizes that within certain specified limitations businesses and certain business advertising are legitimate commercial uses of property adjacent to the highways and are an integral part of the State’s business and marketing economy and should not be unduly restrained and prevented from performing its vital function;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Secretary of Transportation is directed to promulgate rules and regulations to establish reasonable standards for the elimination by the property owner of screening by vegetation of businesses and legally erected forms of advertising as defined by G.S. 136-128 rules promulgated by the Secretary shall provide for preservation of trees that were in existence before the business or advertisement screened was established.

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of July, 1981.

S. R. 392    RESOLUTION 57

A JOINT RESOLUTION AUTHORIZING THE MENTAL HEALTH STUDY COMMISSION TO STUDY STANDARDS AND PROCEDURES FOR ALL RESIDENTIAL GROUP CARE PROGRAMS FOR CHILDREN AND YOUTH.

Whereas, there are different licensing requirements in North Carolina for the various types of residential group care programs for children including, but not limited to, group homes, specialized community treatment centers, drug treatment programs, child-caring institutions, and wilderness camps; and

Whereas, lack of uniformity in procedures and operational standards results in some residential facilities being licensed at lower standards than others and some to operate without meeting any State-approved standards; and

Whereas, diversity of licensing requirements results in a needlessly complex, burdensome, and expensive review process for various licensing agencies, and for facilities applying for licenses;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The Mental Health Study Commission is authorized to study the current system that requires some residential facilities to be licensed while others are allowed to operate without a license; and to identify the various agencies currently involved in the actual licensing process and to evaluate the necessity that each agency have separate and different licensing provisions.

Sec. 2. The Mental Health Study Commission is authorized to recommend uniform procedures to include licensing and operational standards for all residential child care facilities to ensure that the children served receive the best care possible; these standards and procedures may include, but need not be limited to the following: physical plant requirements; sanitation requirements; health care measures for the children at the facility; standards for confidentiality of records; general administrative practices; minimum safety precautions necessary for the protection of children in different types of programs; education for the children in the facilities; personnel policies and

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practices, including but not limited to staff qualifications, staff evaluation and staff development; staff-child ratios; family involvement in the program; and the necessity that each facility develop specialized programs to meet the needs of the children served at the facility.

Sec. 3. The Mental Health Study Commission is authorized to make an interim report to the 1981 General Assembly, Second Session 1982, and a final report to the 1983 General Assembly in January, 1983.

Sec. 4. The Mental Health Study Commission will undertake such study and prepare its report within its assigned fiscal resources and with the cooperation of all relevant State agencies and relevant interest groups.

Sec. 5. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.

S. R. 509

RESOLUTION 58

A JOINT RESOLUTION ENCOURAGING HIGHER FUNDING OF ADULT DAY CARE SO AS TO REDUCE MORE COSTLY REST HOME EXPENDITURES.

Whereas, the State currently is paying for 10,500 persons in rest homes with a reimbursement of up to four hundred forty-five dollars ($445.00) per month; and

Whereas, adult day care costs only one hundred seventy-three dollars ($173.00) per month, and meets the needs of many senior citizens as well as rest homes but only 300 persons are currently receiving adult day care in the 16 certified centers; and

Whereas, there is a shortage of federal Title XX funds for this program of adult day care, and not enough State funds are earmarked for this program; and

Whereas, a more dependable source of funding would encourage more adult day care programs to be set up; and

Whereas, both State and federal changes would be helpful in reducing total government expenditures;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The Congress is urged to increase the amount of federal funds available for adult day care.

Sec. 2. The Appropriations Committees of the General Assembly are urged to make additional funds available in the proposed budget for adult day care.

Sec. 3. A copy of this resolution shall be sent by the Secretary of State to the North Carolina Congressional delegation.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.
S. R. 551  RESOLUTION 59
A JOINT RESOLUTION TERMINATING THE CRIMINAL CODE COMMISSION.

Whereas, the General Assembly has given legislative sanction to the creation and continuation of the Criminal Code Commission in Resolution 24 of the 1971 Session, Resolution 26 of the 1973 Session, Resolution 59 of the 1975 Session, Resolution 70 of the 1977 Session, and Resolution 27 of the 1979 Session; and

Whereas, the Commission membership has diligently pursued its assigned tasks of review and revision of pretrial criminal procedure, trial and appellate procedure, and the criminal law of North Carolina; and

Whereas, the Commission is now finalizing its work on a revision of the criminal law of North Carolina, the final part of its three-part assignment;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The Criminal Code Commission created by Resolution 24 of the 1971 Session of the General Assembly is extended until June 30, 1982, at which date the Commission shall terminate.

Sec. 2. The powers and duties of the Commission are expressly continued in effect including the responsibility to prepare its final report on the proposed criminal law to the Attorney General for his transmission to the members of the 1983 Session of the General Assembly.

Sec. 3. The original members of the Commission or their successors in office shall serve until termination of the Commission. The Commission membership shall be continued at 30 members.

Sec. 4. Notwithstanding any other provisions of law to the contrary, members of the Criminal Code Commission who are State employees are entitled to the same travel allowance, subsistence allowance, and convention registration fees as members of the Criminal Code Commission who are not State employees.

Sec. 5. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.

H. R. 1225  RESOLUTION 60
A JOINT RESOLUTION AUTHORIZING THE SPEAKER OF THE HOUSE AND THE LIEUTENANT GOVERNOR TO APPOINT A SPECIAL COMMITTEE TO STUDY THE DEPARTMENT OF TRANSPORTATION.

Whereas, the Joint Select Committee to study the Department of Transportation has found that the Department has in recent years made no major policy shifts to address the growing problems of inadequate road maintenance and declining revenues; and

Whereas, the Department of Transportation’s Seven-Year Construction Plan is unrealistic and should be revised; and

Whereas, supervisors, engineers, and managers of the Department of Transportation must accept the responsibility for the proper size, work habits, and productivity of the work crews; and

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Whereas, the organization of the Department of Transportation should be reviewed with the goal of consolidating smaller units so as to reduce administrative costs, increase the flexibility of the work force, and eliminate duplication of capital equipment; and

Whereas, the Joint Select Committee to study the Department of Transportation has recommended that the General Assembly continue its review of the Department of Transportation;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Speaker of the House of Representatives and the Lieutenant Governor shall appoint a special committee, consisting of a sufficient number of members of each house, to review the Department of Transportation, giving special attention to the Department’s activities toward improving efficiency in its operations and thereby reducing personnel and expenditures. The Speaker and the Lieutenant Governor shall serve as cochairmen of the special committee. The special committee’s review of the Department shall include the actions of the Board of Transportation; contracts completed; revenues and expenditures; the use of State funds in relation to federal funds; the use of prison labor; major personnel changes; progress in restructuring the Department’s budget and fiscal records so as to be more readily understood by the State Auditor, members of the General Assembly, and others; major equipment transactions; use of motor vehicles by the Department; and ferry operations.

Sec. 2. The Legislative Services Commission shall provide professional and other staff assistance for the special committee. All costs of the committee, including subsistence and travel allowances for members, shall be paid from the General Assembly’s Reserve for Contingencies and Emergencies.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.

H. R. 1292 RESOLUTION 61

A JOINT RESOLUTION AUTHORIZING STUDIES BY THE LEGISLATIVE RESEARCH COMMISSION.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Legislative Research Commission may study the topics listed below. Listed with each topic is the 1981 bill or resolution that originally proposed the study and the name of the sponsor. The Commission may consider the original bill or resolution in determining the nature, scope and aspects of the study. The topics are:

(1) Continuation of study of revenue laws (H.J.R. 15 — Lilley).
(3) Day care (H.J.R. 223 — Brennan).
(4) Civil rights compliance of non-State institutions receiving State funds (H.J.R. 344 — Spaulding).
(5) Social services and public assistance (H.B. 393 — P. Hunt).

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(7) Matters related to public education, including:
   a. The feasibility of making the 12th grade optional in the public schools (H.J.R. 890 — Tally).
   c. The teacher tenure law (S.J.R. 621 — Royall).
   d. Providing teachers with duty-free periods (S.J.R. 697 — Speed).
   e. Continuation of study regarding purchase of buses in lieu of contract transportation, and other school bus transportation matters (no 1981 resolution).

(8) Campaign financing and reporting (H.J.R. 975 — D. Clark).

(9) State’s interests in railroad companies and railroad operations (H.B. 1069 — J. Hunt).

(10) Matters related to insurance, including:
   a. Insurance regulation (H.B. 1071 as amended — Seymour), including the feasibility of establishing within the Department of Insurance a risk and rate equity board.
   b. The potential uses and benefits of arbitration to resolve disputes under State construction and procurement contracts (H.J.R. 1292 — Adams).
   c. The bonding requirements on small contractors bidding on governmental projects (H.J.R. 1301 — Nye).
   d. Continue study of the design, construction and inspection of public facilities (S.J.R. 143 — Clarke).
   e. Whether the leasing of State land should be by competitive bidding (S.J.R. 178 — Swain).

(12) Allocation formula for State funding of public library systems (H.J.R. 1166 — Burnley).

(13) Economic, social and legal problems and needs of women (H.R. 1238 — Adams).

(14) Beverage container regulation (H.J.R. 1298 — Diamont).

(15) Scientific and technical training equipment needs in institutions of higher education (H.J.R. 1314 — Fulcher).

(16) Role of the State with respect to migrant farmworkers (H.J.R. 1315 — Fulcher).

(17) Existing State and local programs for the inspection of milk and milk products (H.J.R. 1353 — James).

(18) Laws authorizing towing, removing or storage of motor vehicles (H.J.R. 1360 — Lancaster).


(20) Laws concerning obscenity (House Committee Substitute for S.B. 295).


(22) Laws pertaining to the taxation of alcoholic beverages and the designation of revenues for alcoholism education, rehabilitation and research (S.J.R. 497 — Gray).
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(23) Regional offices operated by State agencies (S.J.R. 519 — Noble).
(26) Rules and regulations pertaining to the Coastal Area Management Act (S.J.R. 724 — Daniels).
(27) Transfer of Forestry and Soil and Water from Department of Natural Resources and Community Development to Department of Agriculture (H.B. 1237 — Taylor).
(28) Continue sports arena study (H.J.R. 1334 — Barbee).
(29) State investment and maximum earning productivity of all public funds (H.J.R. 1375 — Beard).

Sec. 2. For each of the topics the Legislative Research Commission decides to study, the Commission may report its findings, together with any recommended legislation, to the 1982 Session of the General Assembly or to the 1983 General Assembly, or the Commission may make an interim report to the 1982 Session and a final report to the 1983 General Assembly.

Sec. 3. The Legislative Research Commission or any study committee thereof, in the discharge of its study of insurance regulation under Section 1(10)a. of this act, may secure information and data under the provisions of G.S. 120-19. The powers contained in the provisions of G.S. 120-19.1 through G.S. 120-19.4 shall apply to the proceedings of the Commission or any study committee thereof in the discharge of said study. The Commission or any study committee thereof, while in the discharge of said study, is authorized to hold executive sessions in accordance with G.S. 143-318.11(b) as though it were a committee of the General Assembly.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.

H. R. 1295  RESOLUTION 62

A JOINT RESOLUTION AUTHORIZING THE COMMISSION ON CHILDREN WITH SPECIAL NEEDS TO STUDY THE FEASIBILITY OF ESTABLISHING A STATEWIDE CHILD SCREENING PROGRAM FOR PRE-KINDERGARTEN AGE CHILDREN.

Whereas, some children possess various developmental or acquired differences that cause them to have special learning needs; and
Whereas, failure to discover, understand and treat special learning needs tends to result in the development of learning problems as the child continues in school; and
Whereas, early identification of possible learning differences and learning problems is an initial step in preventing school failure; and
Whereas, when special learning needs are identified early it is possible to give special assistance to the child in order to correct or minimize some of the learning problems; and
Whereas, when special learning needs are identified early and intervention services are planned early the long-term costs of school failure and school dropout are minimized; and

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Whereas, a program aimed at early identification must involve teachers, parents, administrators and support personnel working cooperatively to provide an atmosphere conducive to learning; and

Whereas, screening of children upon entry to school is recognized as a good time to identify early the special learning needs that cause learning problems that lead to school failure;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Commission on Children with Special Needs may study the feasibility of establishing a statewide child-screening program for pre-kindergarten age children to detect special learning needs of the children.

Sec. 2. The Commission on Children with Special Needs may report its findings and recommendations to the 1983 General Assembly.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.

S. R. 675

RESOLUTION 63

A JOINT RESOLUTION AUTHORIZING JOINT MEETINGS OF THE SENATE COMMITTEE ON BANKING AND THE HOUSE COMMITTEE ON BANKS AND THRIFT INSTITUTIONS DURING THE INTERIM PERIOD BETWEEN SESSIONS OF THE 1981 GENERAL ASSEMBLY.

Be it resolved by the Senate, the House of Representatives concurring:

Section 1. Subject to the approval of the Speaker of the House and President Pro Tem of the Senate the Senate Committee on Banking and the House Committee on Banks and Thrift Institutions are authorized to meet jointly during the interim period between Sessions of the 1981 General Assembly to study the impact of changes in the banking laws of North Carolina enacted by the 1981 Session of the General Assembly, First Session 1981; and to study the legislation pending as of the end of the First Session of the 1981 General Assembly. The committees are also authorized to recommend appropriate legislation to the 1981 General Assembly, Second Session 1982.

Sec. 2. The joint meetings of the Senate Committee on Banking and the House Committee on Banks and Thrift Institutions shall be conducted pursuant to Article 5A of Chapter 120 of the General Statutes.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.
H. R. 1335  RESOLUTION 64
A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF EDWIN SMITH POU.

Whereas, Edwin Smith Pou was born in Smithfield, North Carolina, on December 7, 1919, son of Lillian Sanders Pou and the late George Ross Pou; and

Whereas, he attended the Raleigh Public Schools, Virginia Military Institute, The University of North Carolina at Chapel Hill and North Carolina State University, and served on the Board of Trustees of The University of North Carolina; and

Whereas, he served his country for four and one-half years in the United States Army Air Force during World War II and attained the rank of Captain, during which time he served overseas in the Eighth and Ninth Air Force for 27 months; and

Whereas, he was an active member of the Church of the Good Shepherd in Raleigh, a member of the Disabled American Veterans, the American Legion, the Raleigh Rotary Club, the Raleigh Chamber of Commerce and an outstanding civic leader in his community; and

Whereas, he served the State of North Carolina with distinction as a member of the House of Representatives from Wake County in the General Assemblies of 1951, 1953, and 1955; and

Whereas, upon his untimely death on October 31, 1980, he was survived by his widow, Fannie Cooper Pou, his five daughters, Mary Spottswood Pou, Lillian Pou Stroupe, Mildred Sanders Pou, Frances Pou Hamilton, and Ihrie Pou O'Bryant, his two sisters, Ihrie Pou Carr and Lillian Pou Carr, and his mother, Lillian Sanders Pou;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly of North Carolina does by this Joint Resolution express its appreciation and gratitude for the life and career of Edwin Smith Pou and does by this resolution declare that in his passing the County of Wake and the State of North Carolina have lost an able, beloved, and devoted citizen and public servant.

Sec. 2. The General Assembly of North Carolina extends its deep and sincere sympathy to the members of the family of the late Edwin Smith Pou and furnishes them herewith a copy of this resolution as a memorial to its devotion and respect.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.
S. R. 772          RESOLUTION 65
A JOINT RESOLUTION COMMENDING THE NORTH CAROLINA MEDICAL SOCIETY AND ITS MEMBERS FOR PROVIDING MEDICAL SERVICES TO THE GENERAL ASSEMBLY.

Whereas, during the 1981 Session of the General Assembly, members of the North Carolina Medical Society have generously given their time and services to provide a physician of the day for the General Assembly; and

Whereas, with the help of the North Carolina Medical Society, excellent medical care was made available to the General Assembly and all persons associated with the General Assembly;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly expresses its appreciation to the North Carolina Medical Society for its assistance in providing medical services to the General Assembly, its staff, and the gallery. The General Assembly especially extends its appreciation to the Society's members who served as physician of the day.

Sec. 2. The Secretary of State is directed to send a certified copy of this resolution to the President of the North Carolina Medical Society and to each physician who served as physician of the day.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.

S. R. 733          RESOLUTION 66
A JOINT RESOLUTION SETTING THE TIME FOR ADJOURNMENT OF THE 1981 GENERAL ASSEMBLY, TO RECONVENE IN THE FALL OF 1981, AND THEN TO ADJOURN AND RECONVENE IN JUNE 1982; AND LIMITING THE SUBJECTS THAT MAY BE CONSIDERED IN THOSE SESSIONS.

Be it resolved by the Senate, the House of Representatives concurring:

Section 1. At 2:30 p.m., on Friday, July 10, 1981, the Senate and the House of Representatives shall adjourn to reconvene for a session in the Fall of 1981. The Fall 1981 Session shall convene at noon on Monday, November 16, 1981, unless Congress has completed adoption of the federal budget for fiscal year 1982 before that date, in which event the General Assembly may be reconvened at an earlier time determined by agreement of the President of the Senate and the Speaker of the House. The principal clerks shall notify the members of their respective houses of the time set for reconvening. Only bills directly affecting the State budget, or bills concerning the organization or operation of the Fall Session, or bills relating to pensions and retirement matters, or local bills relating to redistricting for boards having tax levying authority, may be introduced or considered during the Fall 1981 Session.

Sec. 2. Upon completion of the Fall 1981 Session, the Senate and the House of Representatives shall adjourn to reconvene at noon on Wednesday, June 2, 1982. During that session only the following matters may be considered:

(1) Bills directly affecting the State budget for fiscal year 1982-83.
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(2) Bills introduced in 1981 and favorably acted upon in the house in which introduced, and not disposed of in the other house by tabling, unfavorable committee report, indefinite postponement, or failure to pass any reading.

(3) Bills implementing the recommendations of study commissions directed or authorized to report to the 1982 Session.

(4) Any local bill filed for introduction by 5:00 p.m., Tuesday, June 8, 1982, and accompanied by a certificate signed by the principal sponsor stating that no public hearing will be required or asked for by a member on the bill, the bill is noncontroversial, and the bill is approved for introduction by each member of the Senate and House whose district includes the local area to which the bill applies.

(5) Selection or confirmation of members of State boards and commissions as required by law.

(6) Any matter authorized by joint resolution passed during the June 1982 Session by two-thirds majority of each house present and voting.

(7) Bills introduced in 1981 relating to pensions and retirement matters and bills implementing the recommendations of standing committees directed or authorized to report to the 1982 Session.

Sec. 3. The President of the Senate and the Speaker of the House may authorize appropriate committees or subcommittees of their respective houses to meet during the interim between sessions to review matters related to the State budget for the 1981-83 biennium and to prepare reports, including revised budgets, for consideration at the Fall 1981 and June 1982 Sessions.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.

H. R. 1393 RESOLUTION 67
A JOINT RESOLUTION AUTHORIZING THE CONSIDERATION OF A BILL TO BE ENTITLED AN ACT TO POSTPONE THE EFFECTIVE DATE OF THE MONEY JUDGMENTS AND EXEMPTIONS ACT.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the 1981 General Assembly, Second Session 1981, may consider a bill to be entitled “An Act to Postpone the Effective Date of the Money Judgments and Exemptions Act”.

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of October, 1981.
H. R. 1386  RESOLUTION 68
A JOINT RESOLUTION AUTHORIZING THE FALL 1981 SESSION TO CONSIDER LOCAL BILLS CONCERNING THE SALE AND DISPOSITION OF PROPERTY.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. In addition to any matter authorized by Resolution 66, Session Laws of 1981, the Fall 1981 Session of the General Assembly may consider local bills concerning the sale and disposition of property.

Sec. 2. This resolution is effective upon ratification.
In the General Assembly read three times and ratified, this the 7th day of October, 1981.

H. R. 1389  RESOLUTION 69

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. In addition to those subjects previously identified in Resolution 66, there may also be introduced or considered at the session at which this joint resolution shall be adopted, bills relating to the authorization of bonds of the State.

Sec. 2. This resolution is effective upon ratification.
In the General Assembly read three times and ratified, this the 7th day of October, 1981.

H. R. 1399  RESOLUTION 70
A JOINT RESOLUTION AUTHORIZING THE FALL 1981 SESSION TO CONSIDER CERTAIN BILLS.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. In addition to any matter authorized by Resolution 66, Session Laws of 1981, the Fall 1981 Session of the General Assembly may consider the following bills:

(1) A BILL TO BE ENTITLED AN ACT EXCEPTING FROM THE STATE NATURE AND HISTORIC PRESERVE AN EASEMENT OVER A PORTION OF JOCKEYS RIDGE STATE PARK.

(2) A BILL TO BE ENTITLED AN ACT REGARDING THE DISTRIBUTION OF DARE COUNTY ABC PROFITS.

(3) A BILL TO BE ENTITLED AN ACT TO AMEND THE EDENTON SUPPLEMENTAL RETIREMENT FUND.

Sec. 2. This resolution is effective upon ratification.
In the General Assembly read three times and ratified, this the 7th day of October, 1981.
RESOLUTION 71

A JOINT RESOLUTION AUTHORIZING THE FALL 1981 SESSION TO CONSIDER A LOCAL BILL CONCERNING THE PAYMENT DATE OF EMPLOYEES OF THE HICKORY BOARD OF EDUCATION.

Be is resolved by the House of Representatives, the Senate concurring:

Section 1. In addition to any matter authorized by Resolution 66, Session Laws of 1981, the Fall 1981 Session of the General Assembly may consider a bill to be entitled: "An Act to Direct the Hickory Board of Education to Pay its Ten-Month Employees on or Before the Thirteenth Day of Each Month."

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of October, 1981.

RESOLUTION 72

A JOINT RESOLUTION AUTHORIZING CONSIDERATION OF A BILL CONCERNING THE TAX RECORDS OF BUNCOMBE COUNTY AND THE CITY OF ASHEVILLE.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The 1981 General Assembly, Second Session (Fall 1981), may consider a bill to be entitled "AN ACT RELATING TO THE TAX RECORDS OF BUNCOMBE COUNTY AND THE CITY OF ASHEVILLE."

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of October, 1981.

RESOLUTION 73

A JOINT RESOLUTION AUTHORIZING CONSIDERATION OF A BILL CONCERNING PLACING RANDOLPH COUNTY UNDER THE STATEWIDE FOX HUNTING LAWS.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The 1981 General Assembly, Second Session (Fall 1981), may consider a bill to be entitled "AN ACT TO PLACE RANDOLPH COUNTY UNDER THE STATEWIDE FOX HUNTING LAWS."

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of October, 1981.
H. R. 1421  RESOLUTION 74
A JOINT RESOLUTION AUTHORIZING CONSIDERATION OF A BILL
CONCERNING ELECTION OF DISTRICT COURT JUDGES IN
DISTRICTS 17-A AND 17-B.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The 1981 General Assembly, Second Session (Fall 1981), may
consider a bill to be entitled "AN ACT PROVIDING A METHOD OF
ELECTING DISTRICT COURT JUDGES IN DISTRICTS 17-A AND 17-B."

Sec. 2. This resolution is effective upon ratification.
In the General Assembly read three times and ratified, this the 8th day of
October, 1981.

H. R. 1411  RESOLUTION 75
A JOINT RESOLUTION SETTING FORTH CERTAIN ADDITIONAL
SUBJECTS WHICH MAY BE CONSIDERED AT THE 1981 SESSION OF
THE GENERAL ASSEMBLY RECONVENING ON OCTOBER 5, 1981.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. In addition to those subjects previously identified, there may
also be introduced or considered at the session at which this joint resolution
shall be adopted, bills making certain technical amendments to Chapters 808
and 856 of the Session Laws of 1981.

Sec. 2. This resolution is effective upon ratification.
In the General Assembly read three times and ratified, this the 8th day of
October, 1981.

H. R. 1418  RESOLUTION 76
A JOINT RESOLUTION AUTHORIZING CONSIDERATION OF A BILL
CONCERNING THE BOARD OF TRUSTEES OF TRI-COUNTY
TECHNICAL INSTITUTE.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The 1981 General Assembly, Second Session (Fall 1981), may
consider a bill to be entitled "AN ACT TO ADD ONE TRUSTEE TO THE
BOARD OF TRUSTEES OF TRI-COUNTY TECHNICAL INSTITUTE TO
BE FROM CLAY COUNTY AND APPOINTED BY THE GOVERNOR."

Sec. 2. This resolution is effective upon ratification.
In the General Assembly read three times and ratified, this the 8th day of
October, 1981.
S. R. 693  RESOLUTION 77
A JOINT RESOLUTION PERTAINING TO THE ADEQUACY, RELIABILITY AND ECONOMY OF ELECTRIC POWER IN THE STATE OF NORTH CAROLINA.

Whereas, the General Assembly of North Carolina is aware of a large and growing level of concern and apprehension by the people of the State regarding the reliability and cost of electricity being provided by the franchised electric utilities in this State;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the Utility Review Committee of the General Assembly is hereby called upon to utilize its resources and such other resources as may be appropriate to fully review and assess the concerns of the citizens of North Carolina as to the adequacy, reliability and cost of electric power being provided and to be provided to the citizens of North Carolina.

Sec. 2. That the Utility Review Committee shall prepare and present its report to the 1983 Session of the General Assembly, which report shall contain the results of its studies and any recommendations for legislation to the General Assembly designed to secure the benefits of an adequate, reliable and economical supply of electric energy to the people of North Carolina.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of October, 1981.

S. R. 790  RESOLUTION 78
A JOINT RESOLUTION AUTHORIZING CONSIDERATION OF A JOINT RESOLUTION CONCERNING A STUDY OF FOX MANAGEMENT.

Be it resolved by the Senate, the House of Representatives concurring:

Section 1. The 1981 General Assembly, Second Session (Fall 1981), may consider a resolution to be entitled A JOINT RESOLUTION DIRECTING THE WILDLIFE RESOURCES COMMISSION TO REPORT TO THE GENERAL ASSEMBLY ON FOX MANAGEMENT.

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of October, 1981.

S. R. 787  RESOLUTION 79
A JOINT RESOLUTION DIRECTING THE WILDLIFE RESOURCES COMMISSION TO REPORT TO THE GENERAL ASSEMBLY ON FOX MANAGEMENT.

Whereas, the interest in the proper management of the fox in North Carolina is a matter of great concern to the General Assembly; and

Whereas, several counties have requested changes to the present management of the fox through local acts; and

Whereas, the hunting and trapping seasons for 1981-82 have been established by regulation by the Wildlife Resources Commission so that any
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local bills adopted by this Fall Session to require fox studies could not result in a fox trapping season before 1982;

Now, therefore, be it resolved by the Senate the House of Representatives concurring:

Section 1. The Wildlife Resources Commission is hereby directed to report to the 1982 Spring Session of the General Assembly with proposed legislation for the sound and equitable management and use of the fox.

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of October, 1981.

H. R. 1427 RESOLUTION 80
A JOINT RESOLUTION PROVIDING FOR THE GENERAL ASSEMBLY TO MEET TO CONSIDER REAPPORTIONMENT.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. Resolution 66, Session Laws of 1981, as amended by Resolution 1, Session Laws Extra Session of 1981, is further amended by adding the following new sections:

"Sec. 1.1. When the House and Senate adjourn on Saturday, October 10, 1981, they stand adjourned to reconvene at noon on Thursday, October 29, 1981, for a Redistricting Session. During the Redistricting Session, only a bill to apportion the districts of the North Carolina House of Representatives, a bill to apportion the districts of the North Carolina Senate, and a joint resolution to provide for the adjournment of the General Assembly until June 2, 1982, shall be in order. No joint resolutions to allow other measures to be considered shall be in order during the Redistricting Session.

Sec. 1.2. The House Committee on Legislative Redistricting and the Senate Committee on Redistricting-Senate shall each meet not later than Wednesday, October 21, 1981, at a time to be set by the chairman of each committee, to consider bills redistricting their respective house of the General Assembly. The House Committee on Legislative Redistricting and the Senate Committee on Redistricting-Senate, shall each report favorably a bill as amended or a committee substitute which, as nearly as may be, apportions the members of their house so as to represent an equal number of inhabitants in accordance with Article II of the Constitution of North Carolina, Sections 3(1) and 5(1). Such bill as amended or committee substitute shall be ready to be reported when the General Assembly reconvenes on Thursday, October 29, 1981."

Sec. 2. Section 2 of Resolution 66, Session Laws of 1981, is amended by deleting the words "Fall 1981 Session", and inserting in lieu thereof the words "Redistricting Session".

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of October, 1981.
RESOLUTION 81
A JOINT RESOLUTION PROVIDING FOR THE ADJOURNMENT OF THE REDISTRICTING SESSION.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The first sentence of Section 2 of Resolution 66, Session Laws of 1981, as amended by Section 2 of Resolution 80, Session Laws of 1981, is rewritten to read:

"When the House and Senate adjourn on Friday, October 30, 1981, they stand adjourned to reconvene at noon on Wednesday, June 2, 1982."

Sec. 2. This resolution is effective upon ratification.
In the General Assembly read three times and ratified, this the 30th day of October, 1981.
S. R. 1  
RESOLUTION 1
A JOINT RESOLUTION AMENDING THE JOINT RESOLUTION SETTING THE TIME FOR ADJOURNMENT OF THE 1981 GENERAL ASSEMBLY.

Be it resolved by the Senate, the House of Representatives concurring:

Section 1. The second and the third sentences of Section 1 of Resolution 66, Session Laws of 1981, are deleted and the following new language inserted in lieu thereof:

"The Fall 1981 Session shall convene at 11:05 a.m. on Monday, October 5, 1981."

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of October, 1981.

S. R. 2  
RESOLUTION 2
A JOINT RESOLUTION ADJOURNING THE 1981 EXTRA SESSION SINE DIE.

Be it resolved by the Senate, the House of Representatives concurring:

Section 1. The Senate and the House of Representatives, constituting the Extra Session of the General Assembly of 1981, do adjourn the Extra Session sine die on Monday, October 5, 1981, at 11:00 a.m.

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of October, 1981.
### APPENDIX

EXECUTIVE ORDERS OF GOVERNOR JAMES B. HUNT, JR.

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AN EXECUTIVE ORDER ESTABLISHING THE NORTH CAROLINA FERRY SYSTEM STUDY COMMISSION

AN EXECUTIVE ORDER INCREASING MEMBERSHIP ON THE GOVERNOR'S COMMISSION FOR RECOGNITION OF STATE EMPLOYEES

AN EXECUTIVE ORDER EXTENDING THE JUDICIAL NOMINATING COMMITTEE

AN EXECUTIVE ORDER REGARDING AN ENERGY MANAGEMENT PROGRAM

AN EXECUTIVE ORDER CREATING A TASK FORCE TO STUDY STATE-CHEROKEE TRIBE RELATIONS
EXECUTIVE ORDER NUMBER 53

GOVERNOR'S COMMISSION FOR RECOGNITION OF STATE EMPLOYEES

WHEREAS, the State of North Carolina has long been noted for loyal, efficient, and dedicated employees; and

WHEREAS, dedicated employees provide valuable services in all areas of state government; and

WHEREAS, the services rendered by employees of the State of North Carolina are in accordance with the highest traditions of service to the citizens of this state; and

WHEREAS, the State of North Carolina is proud to recognize contributions made by the employees of this state.

NOW, THEREFORE, IT IS HEREBY ORDERED:

Section 1. I hereby create the Governor's Commission for Recognition of State Employees.

Section 2. The Commission shall be composed of five members, to be appointed by the Governor. The Governor shall also select the Chairman of the Commission. Each member shall be appointed for a term of two years and is eligible to be reappointed to the Commission.

Section 3. The duties of the Commission are as follows:

(1) Each year the Commission shall recommend to the Governor the week to be proclaimed as "North Carolina State Employee Appreciation Week."

(2) The Commission shall make annual selections of those state employees to receive the "Governor's Award for Excellence."

Section 4. In order to assist the Commission in developing guidelines for recognizing deserving state employees, I hereby direct the establishment of a Task Force to determine the number and frequency of awards to be made and to develop criteria for a
competitive screening and selection process for recipients of employee awards. The Commission Task Force shall be composed of seven (7) members selected as follows:

(1) One member appointed by the Governor upon the recommendation of the North Carolina State Employees Association,

(2) One member appointed by the Governor upon the recommendation of the North Carolina State Government Employees Association,

(3) The Secretary of Administration, ex officio,

(4) The State Personnel Director, ex officio,

(5) The Chairman of the Governor's Commission on Governmental Productivity, ex officio,

(6) Two at-large members appointed by the Governor.

The Governor shall also designate one of the members of the Task Force to serve as Chairman. The Task Force shall be in existence until such time as it has performed its duties and reported to the Commission.

Section 5. The Department of Administration shall be responsible for providing the necessary funds, administrative assistance, and support services needed by the Commission and the Task Force to perform their duties.

Section 6. This Order shall be effective immediately and shall remain in effect until rescinded by Executive Order or superseded by legislation.

Done in Raleigh, North Carolina, this the 8th day of October, 1980.
EXECUTIVE ORDER NUMBER 54
EXTENDING THE ADVISORY COUNCIL TO THE
GOVERNOR'S OFFICE OF CITIZEN'S AFFAIRS

WHEREAS, the Advisory Council to the Governor's Office
of Citizen's Affairs, which has been created by Executive
Order, has played an instrumental role in encouraging volunteerism
on all levels in North Carolina and has greatly assisted in
providing information to the citizens of North Carolina about the
Governor's Office of Citizen's Affairs; and

WHEREAS, the Executive Order authorizing this Advisory
Council expired on October 8, 1980; and

WHEREAS, I now desire to extend the Advisory Council to
the Governor's Office of Citizen's Affairs until the end of this
term of office;

NOW, THEREFORE, IT IS HEREBY ORDERED:

Section 1. Executive Order Number 39 authorizing the
Advisory Council to the Governor's Office of Citizen's Affairs is
hereby extended through and including December 31, 1980.

Section 2. This order shall become effective immediately.

Done in Raleigh, North Carolina, this the 23rd day of
October, 1980.
WHEREAS, domestic violence is believed to be the most unreported crime throughout North Carolina and the nation; and

WHEREAS, *Crime in North Carolina* reports that twenty-five percent of all murders in North Carolina during the year 1976 occurred among family members; and

WHEREAS, *Uniform Crime Reports* reveals that over twenty percent of assaults on law enforcement officers during 1976 and 1977 occurred while officers were answering domestic disturbance calls; and

WHEREAS, limited services are presently available in North Carolina for victims of domestic violence; and

WHEREAS, technical assistance and cooperation are necessary for local and state agencies concerned about the problem; and

WHEREAS, state government and other groups concerned about domestic violence need an appropriate forum in which to discuss ideas and recommend appropriate policy changes to pertinent public and private agencies, which will help develop a statewide policy on domestic violence and provide state government with necessary information.

NOW, THEREFORE, IT IS HEREBY ORDERED:

Section 1. I hereby establish the Governor's Task Force on Domestic Violence.

Section 2. The Governor shall appoint at least ten persons as members of the Task Force, who shall be representative of the various professions concerned with this problem, such as the medical, legal, social service, and mental health professions. In addition, the Governor shall appoint as members representatives from the Governor's Crime Commission, the Department of Crime
Control and Public Safety, the Department of Justice, the Department of Administration, the Administrative Office of the Courts, the Department of Human Resources, the Department of Public Instruction, and the North Carolina Council on the Status of Women. The Governor shall designate the Chairperson of the Task Force. All members shall serve at the pleasure of the Governor.

Section 3. The Task Force shall meet on a quarterly basis or as directed by the Governor.

Section 4. The Task Force shall perform such duties as assigned by the Governor and the Secretary of the Department of Administration, and shall work closely with the staff of the North Carolina Council on the Status of Women. The Task Force shall have the following duties:

A. To review and make recommendations for state government to coordinate agency activities in assisting victims of domestic violence;

B. To evaluate and monitor the new Domestic Violence Act and other laws in the area;

C. To develop model programs for use by local communities; and

D. To provide community education about domestic violence issues.

Section 5. While on official business, members of the Task Force shall be entitled to such per diem and reimbursement for travel and subsistence as may be authorized for members of State Boards and Commissions generally. The North Carolina Council on the Status of Women shall provide the planning and administrative support for the Task Force.

Section 6. This Order shall become effective immediately.
Done in Raleigh, North Carolina, this the 27th day of October, 1980.

[Signature]

GOVERNOR OF NORTH CAROLINA
WHEREAS, a comprehensive program on highway safety is essential to preserve safe driving conditions in this state; and

WHEREAS, there is a need to establish goals and objectives for highway safety and to promote innovative highway safety programs and activities;

NOW, THEREFORE, IT IS HEREBY ORDERED:

Section 1. I hereby establish the Governor's Commission on Highway Safety. The Commission shall be composed of at least twelve (12) members appointed by the Governor to serve at the pleasure of the Governor. The Governor shall designate one of the members as Chairman.

Section 2. The Commission shall meet regularly at the call of the Chairman and may hold special meetings at any time at the call of the Chairman, the Governor or the Secretary of Transportation.

Section 3. Members of the Commission shall be reimbursed for such necessary travel and subsistence expenses as are authorized by N.C.G.S. 138-5. Funds for reimbursement of such expenses shall be made available from the Governor's Highway Safety Program.

Section 4. The Commission shall have the following duties:
(a) Establish statewide highway safety goals and objectives.
(b) Review and support proposed highway safety legislation.
(c) Collect, analyze, and distribute information related to highway safety.
(d) Survey public opinion, attitudes, and ideas on highway safety.
(e) Establish innovative highway safety programs and activities.

(f) Advise the Governor on ways to promote highway safety in North Carolina.

Section 5. This Order shall be effective immediately.

Done in the Capital City of Raleigh, North Carolina, this the 30th day of October, 1980.
WHEREAS, there is a need to promote the use of energy saving technologies in our homes, factories, farms, businesses and offices; and

WHEREAS, a comprehensive study is essential in determining the best way to provide financial assistance for making energy saving improvements;

NOW, THEREFORE, IT IS HEREBY ORDERED:

Section 1. I hereby establish the Governor's Study Commission on Energy Loans. The Commission shall be composed of at least nine (9) members appointed by the Governor to serve at the pleasure of the Governor. The Governor shall designate one of the members as Chairman.

Section 2. The Commission shall meet at the call of the Chairman, the Governor, or the Secretary of Commerce.

Section 3. Staff and support services for the work of the Commission shall be provided by the public staff of the North Carolina Utilities Commission.

Section 4. The Commission shall have the following duties:

(a) Determine whether the state can provide financial assistance to enable homeowners and other energy consumers to borrow money to pay for energy saving improvements.

(b) If it is determined that the state should provide financial assistance, to evaluate the use of low interest bonds and other forms of financial assistance for making the improvements.
(c) To determine whether legislation should be considered in providing a program for financial assistance for energy saving improvements and, if such legislation is advisable, to prepare a draft of that legislation.

(d) Analyze state tax laws and insurance codes to determine whether amendments are necessary to facilitate a program of financial assistance for energy saving improvements.

(e) To determine what role the lending institutions and utilities companies in this state should play in implementing a program of financial assistance for energy saving improvements.

(f) To prepare a report to the Governor on the items listed above and on any other items the Commission deems important on the issue of financial assistance for energy saving improvements.

Section 5. This Order shall be effective immediately.

Done in the Capital City of Raleigh, North Carolina, this the 31st day of October, 1980.
WHEREAS, the Balanced Growth Policy Act was enacted into law by the 1979 North Carolina General Assembly (Session Laws 1979, c.412); and

WHEREAS, the purpose of that Act is to proclaim the Policy of the State of North Carolina to encourage economic progress and job opportunities throughout the State; and

WHEREAS, the goal of this Act is to support growth trends favorable to maintaining a dispersed population, to maintaining a healthy and pleasant environment, while preserving the natural resources of the State; and

WHEREAS, the policy of the State of North Carolina is to support the growth of the State and to designate growth centers or areas with the potential, capacity and desire for growth; and

WHEREAS, the Governor is charged under N.C.G.S. 143-506.13, with establishing a statewide policy-setting process for Balanced Growth that assures citizen involvement and full participation of both State, county and municipal government officials; and

WHEREAS, the Governor created the Interim Balanced Growth Board from the membership of the State Goals and Policy Board and the Local Government Advocacy Council to help develop this policy; and

WHEREAS, the Governor has charged the Interim Balanced Growth Board to develop criteria, to be used in designating growth centers; and

WHEREAS, the Interim Balanced Growth Board has developed the criteria for the following categories of growth centers: Statewide, Regional, Area, Community Employment Center, Government Services Center, and Seasonal; and

WHEREAS, the Governor has adopted the growth center criteria as presented by the Interim Balanced Growth Board; and

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WHEREAS, under the Governor's direction, the Interim Balanced Growth Board initiated an application process for growth center designation and held eighteen (18) city-county briefings on the application process; and

WHEREAS, the Interim Balanced Growth Board has received, reviewed and evaluated the applications for growth center designations; and

WHEREAS, the Interim Balanced Growth Board has submitted its recommendations to the Governor for the designation of growth centers; and

WHEREAS, North Carolina's Balanced Growth Policy Act, N.C.G.S. 143-506.10, directs the Governor to designate growth centers with at least one center in each North Carolina county;

NOW, THEREFORE, IT IS HEREBY ORDERED:

Section 1: I hereby designate the following growth centers for North Carolina as mandated under North Carolina's Balanced Growth Policy Act, N.C.G.S. 143-506.10:

Section 2: STATEWIDE Growth Centers:

<table>
<thead>
<tr>
<th>Cluster Name</th>
<th>Participating Jurisdictions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Asheville-Hendersonville</td>
<td>Asheville; Hendersonville; Biltmore Forest; Black Mountain; Laurel Park; Montreat; Woodfin; Buncombe County</td>
</tr>
<tr>
<td>Charlotte</td>
<td>Charlotte; Matthews; Mecklenburg County</td>
</tr>
<tr>
<td>Fayetteville</td>
<td>Fayetteville; Cumberland County; Spring Lake; Hope Mills</td>
</tr>
<tr>
<td>Greensboro-High Point</td>
<td>Greensboro; Guilford County; High Point; Thomasville; Archdale; Jamestown</td>
</tr>
<tr>
<td>Hickory-Morganton-Lenoir</td>
<td>Alexander County; Burke County; Caldwell County; Catawba County; Brookford; Claremont; Conover; Drexel; Glen Alpine; Granite Falls; Hickory; Hildebran; Hudson; Lenoir; Long View; Maiden; Morganton; Newton; Rhodhiss; Rutherford College; Valdese</td>
</tr>
<tr>
<td>Raleigh-Cary-Garner</td>
<td>Raleigh; Cary; Garner; Morrisville; Knightdale; Wake County</td>
</tr>
<tr>
<td>Wilmington</td>
<td>Wilmington; New Hanover County; Wrightsville Beach</td>
</tr>
<tr>
<td>Winston-Salem</td>
<td>Winston-Salem; Forsyth County; Kernersville; Rural Hall</td>
</tr>
</tbody>
</table>

Section 3: REGIONAL Growth Centers

<table>
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<tr>
<th>Cluster Name</th>
<th>Participating Jurisdictions</th>
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</thead>
<tbody>
<tr>
<td>Boone</td>
<td>Boone; Watauga County</td>
</tr>
<tr>
<td>Durham</td>
<td>Durham; Durham County</td>
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</table>

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<thead>
<tr>
<th>Cluster Name</th>
<th>Participating Jurisdiction</th>
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<tbody>
<tr>
<td>Elizabeth City</td>
<td>Elizabeth City; Pasquotank County</td>
</tr>
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<td>Gastonia</td>
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<td>Hendersonville (dual designation)</td>
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<td>Laurinburg</td>
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<td>New Bern</td>
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<td>Rocky Mount</td>
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### Section 4: AREA Growth Centers

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<td>Brevard</td>
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<td>Eden</td>
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<td>Edenton</td>
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<td>Havelock</td>
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<td>Lincolnton</td>
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<td>Statesville</td>
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Section 5: COMMUNITY EMPLOYMENT Growth Centers:

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<td>Beaufort</td>
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1749
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1750
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Section 6: GOVERNMENT SERVICES Growth Centers:

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<td>Jackson</td>
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<td>Newland</td>
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### Section 7: SEASONAL Growth Centers:

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<th>Cluster Name</th>
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<tbody>
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<tr>
<td>Blowing Rock</td>
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<tr>
<td>Highlands</td>
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<td>Holden Beach</td>
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<td>Lake Waccamaw</td>
<td>Lake Waccamaw</td>
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<td>Nags Head</td>
<td>Nags Head; Kill Devil Hills</td>
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<tr>
<td>Ocean Isle Beach</td>
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### Section 8: PROVISIONAL Growth Centers:

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<td>Salemburg</td>
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<td>Vanceboro</td>
<td>Vanceboro; Craven County</td>
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<tr>
<td>West Onslow Beach</td>
<td>Onslow County</td>
</tr>
</tbody>
</table>

1752
Section 9: As required in the Balanced Growth Policy Act, N.C.G.S. 143-506.10, these designations shall be reviewed annually.

Section 10: This order shall become effective immediately.

Done in the Capital City of Raleigh, this the 11th day of December, 1980.
WHEREAS, adults 60 years of age and over have contributed significantly in making North Carolina a great place to live, and
WHEREAS, older adults are an important and steadily growing element of North Carolina's population, and
WHEREAS, it is important that older adults be able to spend their mature years in safe, sound and affordable environments, and
WHEREAS, high interest rates, rising inflation, decreased housing starts, the conversion of apartments to condominiums, and an existence on a fixed income have combined to reduce housing options for older adults, and
WHEREAS, there is a need to analyze both the availability of and the barriers to housing options for older adults;
NOW, THEREFORE, IT IS HEREBY ORDERED:

Section 1. I hereby establish the Governor's Commission on Housing Options for Older Adults. The Commission shall be composed of at least twenty (20) members to be appointed by the Governor to serve at the pleasure of the Governor. The Governor shall designate one of the members as Chairman. The members of the Commission shall represent a cross-section of older adults and organizations which provide services to older adults, housing providers and financers, and appropriate government officials.

Section 2. The Commission shall meet at the call of the Chairman or the Governor.
Section 3. Staff and support services for the work of the Commission shall be provided by the Division of Policy Development in the North Carolina Department of Administration. Members of the Commission shall be reimbursed for such necessary travel and subsistence expenses as are authorized by N.C.G.S. 138-5. Funds for reimbursement of such expenses and for staff and support services shall be made available from grant funds obtained by the Division of Policy Development.

Section 4. The Commission shall have the following duties:
(a) To analyze the housing needs of older adults in North Carolina.
(b) To review the present federal, state and local programs for meeting such needs.
(c) To review the ability of public agencies to develop and administer housing programs for older adults.
(d) To develop recommendations for the Governor, including those for possible submission to the General Assembly to assure that North Carolina has a reasonable range of housing options to meet the needs of older adults in this state.

Section 5. Members of the Commission shall serve until this project has been completed. The Commission is hereby directed to submit a final report in July of 1981.

Section 6. This Order shall be effective immediately.
Done in the Capital City of Raleigh, North Carolina, this the 31st day of December, 1980.
EXECUTIVE ORDER NUMBER 60
EXECUTIVE MEMORANDUM TO REGULATORY AGENCIES

WHEREAS, compliance with state regulations and federal regulations enforced by state agencies has placed a tremendous burden on many businesses in this State; and

WHEREAS, the State needs to enter into a partnership with private enterprise so that compliance with regulations can be obtained in a spirit of cooperation and understanding; and

WHEREAS, State Government must emphasize a positive attitude in carrying out those duties which are necessary in enforcing regulations;

NOW, THEREFORE:

Section 1. I hereby declare that it shall be the policy of this State to enforce regulations in a positive manner, emphasizing a spirit of cooperation and assistance to private businesses to help them meet regulatory requirements.

Section 2. Regulatory agencies and licensing boards within my nine Cabinet Departments and other regulatory agencies and licensing boards to which I make appointments are directed to develop educational programs and a system of informal conferences to assist private businesses in meeting regulatory requirements. Citations and other legal proceedings to enforce compliance with regulations shall be used only as a last resort when all other efforts to meet requirements have failed.

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Section 3. I invite and encourage other regulatory agencies and licensing boards under Council of State Officers to participate in these cooperative efforts.

Section 4. This memorandum shall be effective immediately.

Done in the Capital City of Raleigh, this the Twenty-eighth day of January, 1981.
WHEREAS, the State of North Carolina has never conducted a systemic review of the length of sentences provided for and handed down for the commission of felony offenses in this State; and

WHEREAS, it is important to the preservation of faith in our criminal justice system that a study be made to review the sentence provided by statute for each felony, the actual sentencing patterns of our judges, and the amount of time served by offenders; and

WHEREAS, there is a need to determine whether the sentences provided by statute are of appropriate length;

NOW, THEREFORE, IT IS HEREBY ORDERED:

Section 1. I hereby create the Governor's Study Commission on Length of Sentences in North Carolina. The Commission shall consist of not less than fifteen (15) nor more than twenty (20) persons familiar with and interested in the criminal justice system, who shall be appointed by the Governor to serve at the pleasure of the Governor or until the Commission has completed its duties and assignments. The Governor shall select one of the members to serve as Chairperson.

Section 2. The Commission shall have the following duties:

A. Review the sentences provided for by statute for each felony offense;

B. Review the actual sentencing practices of judges;

C. Review the actual time served in prison by felons;
D. Compare North Carolina's statutory sentence ranges, sentencing practices, and times served with those of other states;
E. Determine whether the statutes of North Carolina provide for an appropriate sentence for each felony;
F. Submit a report of its findings and recommendations to the Governor.

Section 3. Staff and support services shall be provided by the Governor's Office, the Governor's Crime Commission, the Institute of Government, and the Department of Correction.

Section 4. This Order shall be effective immediately.
Done in the Capital City of Raleigh, this the 17th day of March, 1981.

[Signature]
GOVERNOR OF NORTH CAROLINA
WHEREAS, Article III, Section 5 (10) of the Constitution of North Carolina authorizes and empowers the Governor to make such changes in the allocation of offices and agencies in State Government and in those functions, powers, and duties as he considers necessary for efficient administration; and

WHEREAS, Section 143A-4 of the General Statutes of North Carolina directs the Governor, as chief executive officer of the State, to be responsible for formulating and administering the policies of the executive branch of State Government; and

WHEREAS, Section 143-2 of the General Statutes of North Carolina vests in the Governor, as the ex officio Director of the Budget, a direct and effective supervision of all agencies, institutions, departments, bureaus, boards, and other state agencies by whatsoever name now or hereafter called, for the efficient and economical administration of all such agencies; and

WHEREAS, the citizens of North Carolina are entitled to prompt and efficient delivery of services from State Government while minimizing the State tax burden; and

WHEREAS, it is necessary to accelerate and coordinate the efforts to improve the management and productivity of State Government resources.

NOW, THEREFORE, IT IS HEREBY ORDERED:
Section 1. There is hereby created the North Carolina Management Program. The purpose of the Management Program is to make State Government more productive and efficient and to save tax money in operating the departments of State Government.

Section 2. Each of the nine departments reporting to the Governor is required, and the remaining State departments and the University of North Carolina General Administration are requested to designate in writing to the Governor, from existing staff where possible, one senior staff officer (such as Assistant or Deputy Secretary, Assistant or Deputy Commissioner, Deputy Attorney General, Deputy Treasurer, Vice President, etc.) to be responsible for productivity and management programs. The person so designated shall hereinafter be referred to as Assistant Secretary for Productivity.

Section 3. The Office of State Personnel, the Office of State Budget, and the Office of the Governor's Program for Executive and Organizational Development are directed to designate a senior staff person to be responsible for productivity and management programs in those offices and to serve as members of the Management Council, as hereinafter described.

Section 4. There is hereby created the Governor's Management Council which shall be composed of the Assistant Secretary for Productivity for each of the participating State agencies and the University of North Carolina. The purpose of the Management Council is to share ideas and coordinate efforts to make State Government more productive and efficient. The Secretary of the Department of Administration shall be a member of the Council and shall serve as Chairperson. The Secretary of Administration may designate a Deputy Secretary of Administration to serve as Chairperson in his absence.

Section 5. Governor's Management Directives will be issued periodically by the Governor or his designee to guide the efforts of the Management Program. These Directives will establish
management policies and procedures to be implemented by the Assistant Secretary for Productivity in each participating State agency to improve the efficiency of State Government and individual agency management.

Section 6. The Department of Administration shall provide staff support to the Management Program and the Management Council.

Section 7. Each participating State agency is requested to submit plans for improving agency management and productivity as a part of the annual plan of work, and semi-annual reports of progress, with primary emphasis on improvement efforts resulting from agency initiatives.

Section 8. The Management Council shall submit an annual plan for improving State Government management and productivity, and a semi-annual report of progress, to the Governor and the Governor's Commission on Governmental Productivity.

Section 9. This Order shall become effective immediately.

Done in the Capital City of Raleigh, North Carolina, this the 25th day of March, 1981.
EXECUTIVE ORDER NUMBER 63
NORTH CAROLINA COUNCIL ON HOLOCAUST

WHEREAS, six million Jews were murdered in the Nazi Holocaust as part of a systematic program of genocide, and millions of other people were killed by the Nazis; and
WHEREAS, the memory of the Holocaust serves as a warning to future generations to prevent the recurrence of such atrocities; and
WHEREAS, the people of the State of North Carolina should dedicate themselves, through vigilance and resistance, to preventing prejudice and inhumanity; and
WHEREAS, the first State of North Carolina Holocaust Remembrance observance is April 29, 1981;
NOW, THEREFORE, IT IS HEREBY ORDERED:

Section 1. I hereby establish the North Carolina Council on the Holocaust. The purpose of the Council is to prevent future atrocities by developing a program of education and observance of the Holocaust.

Section 2. The Council shall consist of not more than 25 members appointed by the Governor to serve at the pleasure of the Governor. The Governor shall designate from among the membership the Chairman and Vice-Chairman.

Section 3. This order shall become effective immediately.

Done in the Capital City of Raleigh this the 29th day of April, 1981.

JAMES B. HUNT, JR.
GOVERNOR OF NORTH CAROLINA

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WHEREAS, the State of North Carolina, as part of its Bicentennial commemoration in 1976, established the Capital Area Visitor Center to serve visitors to the state government complex and the Raleigh area generally; and

WHEREAS, the Visitor Center, in its first four years of operation, has scheduled visits for over 300,000 people--including over 3,000 groups of students--to one or more sites including the Capitol, Executive Mansion, State Legislative Building, three state museums, and other area attractions; and

WHEREAS, in addition to these scheduling services, over 200,000 visitors to the center have received information, directions, educational programs and tours, and other visitor services; and

WHEREAS, the clientele of the Visitor Center have requested an extremely wide range of visitor services related not only to state government, but also to city and county government, local and statewide tourist attractions and accommodations, Raleigh area commerce and industry, and historical and cultural activities; and

WHEREAS, many requested visitor services are not readily available in the Visitor Center and visitors must be referred to a sometimes confusing array of agencies and sources, resulting in inefficiency and visitor dissatisfaction; and
WHEREAS, the Capitol, Executive Mansion, State Legislative Building, and other area sites are very valuable—but largely untapped—resources for citizenship education programs for students and other visitors; and

WHEREAS, there is a need to bring together a representative group of interested citizens to plan and develop better services for visitors to the Capital Area;

NOW, THEREFORE, IT IS HEREBY ORDERED:

Section 1. I hereby create the Capital Area Visitor Services Committee.

Section 2. The Capital Area Visitor Services Committee shall consist of at least nine (9) members selected in the following manner: (1) At least two (2) current members of the General Assembly, appointed by the Governor; (2) The Secretary of Commerce or designated representative (for matters related to Travel and Tourism Development); (3) The Secretary of State or designated representative (for matters related to Citizens Access to State Government; (4) The Mayor of Raleigh or designated representative; (5) The President of the Raleigh Chamber of Commerce or designated representative; (6) The Director of the Division of Archives and History; and at least two (2) at-large members representing Raleigh area historical and cultural attractions and institutions of higher learning, appointed by the Governor. The chairperson of the committee shall be appointed by the Governor to serve at the pleasure of the Governor.

Section 3. The primary duties and responsibilities of the Committee are as follows:

(a) To assist the Division of Archives and History, Department of Cultural Resources by studying the various capital area visitor attractions, programs, and resources, and by compiling a long-range plan for coordinated visitor services and citizenship educational programs for the Capital area;

(b) To advise the Division on the implementation of the long-range plan by recommending specific steps to be taken;
(c) If the Committee determines that additional or improved physical facilities and program resources for visitor services are needed, (1) to advise the Division of Archives and History and the Department of Administration on the location and design of these facilities, and (2) to assist in obtaining financial and other resources necessary to construct these facilities and to establish visitor services programs in accordance with the long-range plan;

(d) To advise the Division of Archives and History on the most appropriate methods for the establishment and development of the visitor services facilities and programs in a manner which, where appropriate and feasible, will consolidate into one physical facility or into one vicinity the visitor services which are now located in agencies and organizations scattered throughout the Capital area;

(e) To advise the Division of Archives and History and various other Capital area visitor attractions on the most appropriate ways to coordinate the programs and activities of these attractions on an area-wide basis to create a more attractive package of visitor services which is more accessible to visitors; and

(f) To select appropriate qualified researchers and research agencies or institutions to assist the Committee in undertaking such studies as may be required to complete the Committee's duties and responsibilities.

Section 4. The Committee shall submit a report or reports to the Governor as follows:

(a) A long-range plan for coordinated capital area visitor services and citizenship educational programs; and

(b) After approval of the long-range plan by the Governor, and if requested by the Governor, a report or reports on recommended specific steps necessary for the implementation of the long-range plan.

Section 5. Administrative and staff services for the Committee shall be provided by the Division of Archives and History, which also shall provide the Committee with information relating to
visitor center programs. In addition, the Division shall assist the Committee in preparing reports for submission to the Governor.

Section 6. The Committee shall terminate upon the submission of its final report to the Governor unless ordered otherwise by the Governor or by action of the North Carolina General Assembly.

Section 7. This order shall become effective immediately.

Done in the Capital City of Raleigh, North Carolina, this the 12th day of May, 1981.
EXECUTIVE ORDER NUMBER 65
COUNTY TRANSPORTATION EFFICIENCY COUNCILS

WHEREAS, the operations of the Department of Transportation affect the lives of all North Carolinians; and
WHEREAS, our state's 76,000 miles of roads and highways provide the economic lifeline throughout North Carolina; and
WHEREAS, citizens' suggestions and comments for improving operations and productivity in the Department of Transportation can be of tremendous importance in reducing costs and improving service;

NOW, THEREFORE, BE IT HEREBY ORDERED:

Section 1. A County Transportation Efficiency Council shall be established in each of the 100 counties.

Section 2. Each council will examine the work program, policies, methods and operations of each Department of Transportation county maintenance unit.

Section 3. Each council will make recommendations to the Governor and the Board of Transportation on cutting costs and improving efficiency in those units. The Department will implement those recommendations that are appropriate.

Section 4. Each council will act as a channel for citizens to express concerns, complaints, comments and suggestions regarding highway work.
Section 5. Each council will meet at least quarterly.
Section 6. This order is effective immediately.
Done in the Capital City of Raleigh, North Carolina, this the 21st day of May, 1981.

[Signature]
GOVERNOR OF NORTH CAROLINA
WHEREAS, the people of North Carolina desire the best possible future for their children, their communities and their state; and

WHEREAS, North Carolina is expected to undergo rapid and dramatic changes by the year 2000; and

WHEREAS, these changes will present important and difficult new choices for the future; and

WHEREAS, the people of North Carolina have the right to understand the choices available and the responsibility to participate in making those choices;

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

Section 1. I hereby establish the Commission on the Future of North Carolina. The Commission shall be composed of:

(1) members of the State Goals and Policy Board,

(2) five members each from the Senate and House of Representatives of the North Carolina General Assembly, and

(3) citizens at-large.

In addition, the President of the Senate and the Speaker of the House of Representatives shall serve as ex officio members. Members shall be appointed by and serve at the pleasure of the Governor. The chairman shall be appointed by and serve at the pleasure of the Governor.

Section 2. The Commission shall meet at the call of the Chairman.

Section 3. The members of the Commission shall serve without compensation, but shall receive such necessary travel and subsistence expenses as are authorized by N.C.G.S. 138-5. Funds for these expenses shall be provided by the Department of Administration.
Section 4. Duties and Responsibilities of the Commission. The duties and responsibilities of the Commission on the Future of North Carolina are as follows:

(1) to carry out a futures program to be known as North Carolina 2000;
(2) to build an awareness of and concern for North Carolina's future among citizens of this state;
(3) to identify the future opportunities and constraints which may affect the quality of life for North Carolinians by the year 2000;
(4) to develop alternatives for achieving the best possible future for North Carolina;
(5) to offer citizens the opportunity to voice their views, suggestions, and ideas on future alternatives; and
(6) to prepare and present recommendations to the Governor and General Assembly for public and private actions which would enhance North Carolina's future.

Section 5. The Department of Administration shall provide staff and services for the Commission.

Section 6. Each Cabinet Department Secretary shall cooperate with the Commission to carry out the provisions of this Order.

Section 7. The elected heads of the Council of State Departments are encouraged and invited to join in the provisions of this Order. All services of the Commission available to the Governor and his Cabinet under this Order shall be available to each of the heads of the Council of State Departments electing to participate.

Section 8. It shall be the responsibility of state boards, commissions, and other similar bodies established under North Carolina's laws to assist the Commission in carrying out the provisions of this Order.

Section 9. This Order shall be effective immediately.

Done in the Capital City of Raleigh, this the first day of June, 1981.

JAMES B. HUNT, JR.
GOVERNOR OF NORTH CAROLINA
EXECUTIVE ORDER NUMBER 67
EXTENDING THE ADVISORY COUNCIL TO THE
GOVERNOR'S OFFICE OF CITIZEN AFFAIRS

WHEREAS, the Advisory Council to the Governor's Office of Citizen Affairs, which has been created by Executive Order, has played a significant role in promoting, encouraging, recognizing and affirming volunteerism both within the public and private sectors; and

WHEREAS, the Advisory Council has provided valuable information to the staff of the Governor's Office of Citizen Affairs regarding all dimensions of volunteerism; and

WHEREAS, the Executive Order authorizing this Advisory Council expired on December 31, 1980; and

WHEREAS, I now desire to extend the Advisory Council to the Governor's Office of Citizen Affairs until the end of this year;

NOW, THEREFORE, IT IS HEREBY ORDERED:

Section 1. Executive Order Number 54 authorizing the Advisory Council to the Governor's Office of Citizen Affairs is hereby extended through and including December 31, 1981.

Section 2. This Order shall become effective immediately.

Done in Raleigh, North Carolina, this the 1st day of July, 1981.

JAMES B. HUNT, JR.
GOVERNOR

\[Signature\]
EXECUTIVE ORDER NUMBER 68
HIGHWAY CONTRACT OVERSIGHT COMMISSION

WHEREAS, recent investigations, prosecutions, trials and convictions have revealed the practice by certain contractors in North Carolina of widespread violations of State and Federal laws regulating the awarding of highway construction contracts; and,

WHEREAS, the State of North Carolina has lost millions of dollars due to the practice of illegal bidding methods; and,

WHEREAS, every effort should be made to prevent any possible recurrence of the illegal acts, or the occurrence of any new form of illegal activity related to the awarding of highway construction contracts;

NOW, THEREFORE, IT IS HEREBY ORDERED:

Section 1. I hereby create the North Carolina Highway Contract Oversight Commission. The Oversight Commission will be composed of six (6) members having particular expertise in matters related to engineering, construction, law and finance. The members shall be appointed by the Governor and shall serve at his pleasure.

Section 2. The Governor shall designate the Chairman of the Commission. Meetings shall be held at the direction of the Chairman.

Section 3. The Highway Contract Oversight Commission's duties shall include, but shall not be limited to the following:
(1) to review the procedures of the Department of Transportation in regard to bidding on and awarding of highway construction contracts;

(2) to regularly examine how such procedures are being carried out, especially to determine if there are any indications of improper activity;

(3) to determine how "complimentary bidding" and other illegal practices by contractors can be prevented;

(4) to draft and recommend any necessary changes of law, regulations, policies or procedures to prevent illegal bidding or contract activity;

(5) to carry out such studies, investigations, or examinations as the Commission shall deem reasonable and necessary to prevent losses to the State of North Carolina from illegal highway construction practices;

(6) to report their findings, recommendations and proposed changes to the Governor at such times as the Chairman deems appropriate.

Section 4. The Center for Transportation Engineering Studies at North Carolina State University shall provide staff support for the activities of the Oversight Commission. The Department of Transportation shall provide any other administrative support for the activities of the Commission.

Section 5. To further the objectives of this Executive Order, all state agencies and personnel are requested to cooperate with this Commission by providing all information and statistics requested by the Commission.

Section 6. Members of the Highway Contract Oversight Commission shall be entitled to such per diem and reimbursement for travel and subsistence expenses authorized for members of State boards and commissions generally under N.C. G.S. 138-5. The State Office of Budget and Management shall designate the funding source for such per diem and expenses.
Section 7. This Order shall become effective immediately.

Done in Raleigh, North Carolina, this the 2nd day of July, 1981.
WHEREAS, the economic health of coastal North Carolina is dependent on the state's ferry system for the transportation of tourists, area residents, school children and commercial goods and services; and

WHEREAS, the state's ferry system is an integral part of the state's highway system, subject to the problems of increasing service demands, increasing costs and decreasing revenues; and

WHEREAS, it is appropriate that Department of Transportation's operation of the ferry system should be reviewed and revised as necessary;

NOW, THEREFORE, IT IS HEREBY ORDERED:

Section 1. I hereby establish the North Carolina Ferry System Study Commission.

Section 2. The Ferry System Study Commission shall consist of up to 24 members, appointed by the Governor with one member designated Chairman by the Governor. Members will include representatives of the travel and tourism industry as well as residents of the coastal areas which are served directly by the ferry system.

Section 3. The Ferry System Study Commission shall review the operations and needs of the North Carolina ferry system and shall report to the Governor and the North Carolina Board of Transportation with recommendations concerning:

a. Current operational procedures, schedules and services,

b. Current capital needs and vessel replacements required by present operations, and
c. A 15-year capital need and vessel replacement plan.

Section 4. The Study Commission shall submit an interim report to the Governor this fall. The Study Commission shall submit a final report to the Governor on or before January 1, 1982. The Study Commission will be dissolved when its final report is received by the Governor.

Section 5. Members of the Study Commission shall be entitled to reimbursement for travel and subsistence expenses, in accordance with N.C. G.S. 138-5, from funds designated by the Office of State Budget and Management.

Section 6. This order shall become effective immediately.

Done in the City of Raleigh, North Carolina, this the ___ day of July___, 1981.
EXECUTIVE ORDER NUMBER 70
AMENDING EXECUTIVE ORDER NUMBER 53,

THE GOVERNOR'S COMMISSION FOR RECOGNITION OF STATE EMPLOYEES

WHEREAS, on October 8, 1980, I promulgated Executive Order Number 53, creating the Governor's Commission for Recognition of State Employees; and

WHEREAS, I now desire to amend said executive order to increase the number of people who shall serve on said Commission.

NOW, THEREFORE, IT IS HEREBY ORDERED:

Section 1. Section 2 of Executive Order Number 53 is hereby amended to read as follows: "The Commission shall be composed of seven members, to be appointed by the Governor. The Governor shall also select the chairman of the Commission. Each member shall be appointed for a term of two years and is eligible to be reappointed to the Commission."

Section 2. This order shall be effective immediately.

Done in Raleigh, North Carolina, this the 4th day of September, 1981.

JAMES B. HUNT, JR.
GOVERNOR

[Signature]
WHEREAS, the use of the Judicial Nominating Committee for Superior Court Judges has helped maintain a strong and viable judiciary by insuring that those persons appointed by the Governor to fill vacancies on the Superior Court have been selected on the basis of personal and professional competence and fitness to administer right and justice wisely; and,

WHEREAS, the use of the Judicial Nominating Committee for Superior Court Judges has helped insure that only the most qualified, conscientious and dedicated persons available have been appointed by me, as Governor, to the Superior Court; and,

WHEREAS, I now desire to extend the Judicial Nominating Committee for Superior Court Judges to provide for the continued merit selection of persons to fill vacancies on the Superior Court;

NOW, THEREFORE, IT IS HEREBY ORDERED:

Section 1. The Judicial Nominating Committee for Superior Court Judges as created by Executive Order Number 12 and amended by Executive Order Number 24, 30 and 52, is hereby extended until June 30, 1982, effective on the date of the signing of this Order.

Section 2. The Committee shall consist of 36 members to be selected as follows:

(a) 13 citizens who are not licensed to practice
law in the State, no less than 3 of whom and no more than four of whom shall be residents of the same judicial division of the State, to be appointed by the Governor.

(b) 13 attorneys licensed to practice law in the State, no less than 3 of whom and no more than four of whom shall be residents of the same judicial division of the State, to be appointed by the Chief Justice of the Supreme Court of North Carolina.

(c) Four citizens who are not licensed to practice law in the State, each a resident of a different judicial division of the State, two to be appointed by the President Pro Tempore of the Senate and two by the Speaker of the House of Representatives.

(d) Four attorneys licensed to practice law in the State, two to be appointed by the President Pro Tempore of the Senate, and two by the Speaker of the House of Representatives.

(e) Two members of the Supreme Court of North Carolina, one of whom shall serve as Chairman of the Committee, and another, who shall serve in the absence of the Chairman as Chairman Pro Tempore of the Committee, each to be appointed by that Court.

(f) Exclusive of the Chairman and Chairman Pro Tempore, each member of the Committee shall be a resident of a different judicial district of the State, as the State is currently divided into thirty-four judicial districts. The removal of such a member's residence from the district of appointment creates a vacancy to be filled from that district as provided in Subsection (g) of this Section. To insure the
required distribution of members among the judicial
districts, appointments of such members other than
the Chairman and Chairman Pro Tempore shall be
made in the following sequence by the appointing
authorities indicated:

(i) The Governor shall first make the appointments
provided in Subsection (a).

(ii) The Chief Justice of the Supreme Court shall
then make the appointments provided in
Subsection (b).

(iii) The President Pro Tempore of the Senate
shall then make the appointments provided
respectively in Subsections (c) and (d).

(iv) The Speaker of the House of Representatives
shall then make the appointments provided
respectively in Subsection (c) and (d).

(g) The Chairman and Chairman Pro Tempore shall
serve at the pleasure of the Supreme Court. All
members other than the Chairman and Chairman Pro
Tempore shall serve for a period of one (1) year or
until earlier termination of this Committee by
subsequent Executive Order. Upon the occurrence of
a vacancy prior to expiration of a term, the vacancy
shall be filled by the then incumbent in the office
of the appointing authority that made the initial
appointment. A member appointed to fill a vacancy
occurring prior to the expiration of a term serves
for the remainder of the unexpired term. Successor
members appointed shall be of the same category and
from the same district as the initial appointees. No
member of the Committee other than the Chairman and
Chairman Pro Tempore is eligible for appointment to
a judicial office of this state that is created or
vacated during the member's service on the Committee and for a period of six months thereafter.

(h) All current members of the Committee are eligible for reappointment. If the appointing authority chooses not to reappoint a current member, then the member's successor must be a resident of the same judicial district. The appointing authority must submit the names and addresses of his or her appointees to the Executive Secretary within 15 days of the signing of this order.

(i) While engaged on official business, a member of the Committee is entitled to such per diem and reimbursement for travel and subsistence as may be authorized for members of State Boards and Commissions generally.

Section 3. The function of the Judicial Nominating Committee is to identify and nominate for appointment those persons most highly qualified personally and professionally to be Superior Court Judges without regard to any partisan political considerations. To accomplish this purpose the Committee shall be divided into four panels, as herein below provided:

(a) In considering and making nominations for Superior Court Judges, the Chairman and Chairman Pro Tempore and all members of the Committee who are residents of the judicial division of which the judge to be appointed as a resident shall exercise the powers of the Committee in respect to that particular judgeship.

(b) Subject to the provisions of this Order, the Committee may direct meetings and public hearings to be held anywhere within the State; publicize vacancies in judicial offices and solicit candidates therefore; adopt rules of procedure for the exercise of its powers
and take any other actions necessary and proper to the accomplishment of its functions.

(c) Panels of the Committee shall meet on call of the Chairman, Chairman Pro Tempore, or a majority of the members of the panel. All calls for meetings shall be upon reasonable notice to all members entitled to participate. Meetings of any of the panels of the Committee shall be presided over by the Chairman, or in his absence, the Chairman Pro Tempore. The Chairman or Chairman Pro Tempore presiding shall vote only when necessary to break tie votes of the members of the panel present. A simple majority of the members constituting the nominating panel constitutes a quorum for exercise of the panel's powers; but no nomination may be made except upon the concurrence of at least a majority of the members of a nominating panel authorized to make a particular nomination.

(d) Each panel shall elect a secretary from among its members.

(e) The Governor shall name an Executive Secretary for the Committee.

Section 4.

(a) Any person who is eligible to hold the office of Superior Court Judge may file with the Judicial Nominating Committee, in accordance with its rules, a questionnaire for prospective nominees for Superior Court Judgeships. The Committee may, in its discretion, consider and nominate a person who has not filed a questionnaire.

(b) For any vacancy in the office of Superior Court Judge, the Committee should nominate no less than three (3) nor more than five (5) persons.

(c) Full consideration of minority and female
applicants is encouraged.

(d) Nominations to fill vacancies may be submitted to the Governor not more than sixty (60) days in advance of mandatory retirement of a judge; and all nominations should in any event be submitted no later than sixty (60) days after a vacancy occurs. Should the Committee fail to submit to the Governor nominations within sixty (60) days after a vacancy occurs, the Governor may proceed to fill the vacancy. Nominations by the Committee shall be certified to the Governor over the signature of the Chairman or the Chairman Pro Tempore. Nominations shall be submitted to the Governor in alphabetical order and shall not be ranked in any special order.

(e) To assist the Committee, the Administrative Office of the Courts shall notify the Committee of the imminence of vacancies in Superior Court Judgeships occurring for any reason known to them in advance of their occurrence, and shall notify the Committee of other vacancies as soon as is practicable.

Section 5. Forthwith upon receipt of nominations from the Judicial Nominating Committee, the Governor shall cause the identity of the nominees to be made public by any appropriate means. Within thirty (30) days after receipt of nominations or the occurrence of a vacancy, whichever event last occurs, the Governor shall appoint one of the nominees to fill the vacancy for which nominated.

Section 6. This Executive Order shall apply to all vacancies in the Office of Superior Court Judge.

Section 7. This Executive Order shall apply to Special Superior Court Judges in the following manner:

(a) For a single vacancy in the Office of Special Superior Court Judge, the Governor shall direct the
panel or panels of his choice to nominate no less than three (3) nor more than five (5) persons who reside in the respective panels' division to fill the vacancy.

(b) When two or more vacancies occur in the Office of Special Superior Court Judge, the Governor shall direct the panel or panels of his choice to nominate persons to fill the vacancy. If the Governor determines, in his discretion, that two or more Special Superior Court Judges may be chosen from a single judicial division, the Governor may direct that no less than three (3) nor more than five (5) persons multiplied by the number of vacancies who reside in a panel's division be nominated by the panel to fill the vacancies.

(c) All other rules which are applicable to regular Superior Court Judges are hereby incorporated for the filling of vacancies for Special Superior Court Judges.

Section 8. It is understood that this is a voluntary merit selection process for Superior Court Judges, and should the Governor later determine that any panel or panels of the Judicial Nominating Committee has not given due consideration to all qualified applicants for the Office of Superior Court Judge, in accordance with the procedures set forth by this Executive Order, or that there is any question as to the legality or constitutionality of this Executive Order, then to that extent, nothing contained herein is intended to in any way impair or delegate the constitutional and statutory powers, duties or perogatives of the Governor in the filling of vacancies in judicial offices by appointment. Also, to that extent, the right to reject any or all of the nominees so selected and recommended is specifically reserved unto the Governor.

Section 9. Each member of the Committee is encouraged
to seek out competent and qualified candidates for Superior Court Judge. Such a solicitation will not be deemed an endorsement of a candidate. Furthermore, bar groups, civic associations and citizen groups are encouraged to seek out and recommend competent and qualified candidates for Superior Court Judge.

Section 10. This Order shall become effective immediately.

Done in Raleigh, North Carolina, this the 9th day of September, 1981.

[Signature]
GOVERNOR OF NORTH CAROLINA
WHEREAS, natural phenomena such as hurricanes, floods, tornadoes, severe winter weather, droughts, earthquakes, and man-made disasters such as explosions or major electric power failures are an every-present danger; and

WHEREAS, potential enemies of the United States now possess the capability of launching attacks and unprecedented destruction upon this State and nation, from land, sea and air; and

WHEREAS, it is the duty of the Department of Crime Control and Public Safety to provide emergency services to protect the public against natural and man-made disasters; and

WHEREAS, it is the duty of the Department of Crime Control and Public Safety to insure the preparation, coordination, and currency of emergency management and military plans and effective conduct of emergency operations by all participating agencies to sustain life and prevent, minimize, or remedy injury to persons and damage to property resulting from disasters caused by enemy attack or other hostile actions or from disasters due to natural or man-made causes; and

WHEREAS, the Emergency Management Act of 1977, as amended, N.C.G.S. 166A-1, et seq., the North Carolina Emergency War Powers Act, N.C.G.S. 147-33.1, et seq., and Article 36A of Chapter 14 of the General Statutes confer upon the Governor comprehensive powers to be exercised in providing for the common defense and protection of the lives and property of the people of this State against both man-made and natural disasters; and

WHEREAS, the effective exercise of these emergency powers requires extensive initial planning, continued revision and exercising of plans, assignment of Emergency Management functions prior to the occurrence of an emergency, the training of personnel in order to ensure a smooth,
effective application of governmental functions to emergency operations, and the quick response of all necessary State resources; and

WHEREAS, these Emergency Management functions are intended to be and can be accomplished most effectively through those established activities of State and local government whose normal functions relate to those emergency services which would be needed;

NOW, THEREFORE, IT IS HEREBY ORDERED:

Section 1. In the event the Governor, in the exercise of his constitutional and statutory responsibilities, shall deem it necessary to utilize the services of more than one subunit of State Government to provide protection to the people from natural or man-made disasters or emergencies, including but not limited to wars, insurrections, riots, civil disturbances, or accidents, the Secretary of Crime Control and Public Safety under the direction of the Governor, shall serve as the chief coordinating officer for the State between the respective subunits so utilized, as provided in N.C.G.S. 143B-476.

Section 2. Whenever the Secretary of Crime Control and Public Safety exercises the authority provided in Section 1, he shall be authorized to utilize and allocate all available State resources as are reasonably necessary to cope with the emergency or disaster, including directing of personnel and functions of State agencies or units thereof for the purpose of performing or facilitating the initial response to the disaster or emergency. Following the initial response, the Secretary, in consultation with the heads of the State agencies which have or appear to have responsibility for dealing with the emergency or disaster, shall designate one or more lead agencies to be responsible for subsequent phases of the response to the emergency or disaster. Pending an opportunity to consult with the head of such agencies, the Secretary may make interim lead agency designations.

Section 3. Every department of State Government is required to report to the Secretary of Crime Control and Public Safety by the fastest means practicable, all natural or man-made disasters or emergencies, including but not limited to wars, insurrections, riots, civil disturbances, or accidents which appear likely to require the utilization of the services of more than one subunit of State Government.
Section 4. The Secretary of Crime Control and Public Safety is hereby authorized to delegate the authority to utilize and allocate all available State resources as may be necessary to carry out the intent of this order.

Section 5. An explanation of the Emergency Management functions assigned to each State department, division, subdivision or agency is contained in the State plans developed and published by the Division of Emergency Management of the North Carolina Department of Crime Control and Public Safety and the provisions of these documents, including annexes attached thereto, and any revisions thereto, are specifically incorporated herein by reference.

Section 6. The heads of the departments of State Government and other agencies designated in said plans are granted the authority and charged with the responsibility to develop supporting plans and procedures and to execute upon order of the Governor, the Secretary of Crime Control and Public Safety or his designee the Emergency Management functions assigned to them in said plans.

Section 7. The Secretary of Crime Control and Public Safety is hereby authorized to update and periodically revise or cause to be revised said plans and supporting plans to the end that they will be at all times current and consistent with the functions, duties, and capabilities of a given department or agency.

Section 8. The head of each department, agency, commission or office of State Government that is charged with Emergency Management responsibilities shall designate personnel from said department, agency, commission, or office to perform liaison with all other components of State Government on matters pertaining to Emergency Management activities.

Section 9. The heads of State Government departments assigned Emergency Management functions shall prepare procedures to procure from governmental and private sources all materials, manpower, equipment, supplies, and services which would be needed to carry out these assigned functions. Each agency of State Government shall cooperate

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with all other agencies of State Government to assure the availability of resources in an emergency.

Section 10. This Order shall supersede and cancel all previous Executive Orders on this subject.

Section 11. This Order shall become effective immediately.

Done in the Capital City of Raleigh, North Carolina, this the 14th day of December, 1981.
WHEREAS, the Eastern Band of Cherokee Indians resides in five rural counties in Western North Carolina on land set aside for their use and benefit by the government of the United States of America; and

WHEREAS, a separate body of federal law dealing with federally recognized Indian Tribes has been developed; and

WHEREAS, the Eastern Band of Cherokee Indians has a unique legal relationship with the State of North Carolina and its agencies; and

WHEREAS, the Eastern Band of Cherokee Indians makes valuable contributions to the State of North Carolina; and

WHEREAS, there is a need to study the relationship between the Eastern Band of Cherokee Indians and the State of North Carolina in order to resolve potential conflicts relating to jurisdiction, regulatory power and other matters of concern to the State and the Cherokee Indians;

NOW, THEREFORE, IT IS HEREBY ORDERED:

Section 1. I hereby create the North Carolina Task Force to Study State-Cherokee Tribe Relations. The task Force shall be composed of the following members:

(A) Not more than six members appointed by the Chief of the Eastern Band of Cherokees;

(B) Not more than seven members appointed by the Governor.
(C) The Governor and the Chief of the Eastern Band of Cherokees shall jointly select one of the members to serve as Chairman.

Section 2. The primary duties and responsibilities of the Task Force are as follows:

(A) To identify existing and potential conflicts between the State of North Carolina and the Eastern Band of Cherokee Indians; and

(B) To propose state and federal legislation and agreements between the State of North Carolina and the Cherokee Tribe to resolve existing and potential conflicts.

(C) The Task Force shall make its report and recommendations to the Governor on or before January 1, 1983.

Section 3. The Task Force is authorized to hold public hearings in order to carry out its duties and responsibilities.

Section 4. All departments of State Government and all affected agencies of local governments are requested to assist the Task Force in carrying out its duties.

Section 5. Members of the Task Force shall serve without compensation but shall receive such necessary travel and subsistence expenses as are authorized by N.C.G.S. 138-5.

Section 6. Expenses incurred by the Task Force in performing its duties shall be paid from funds allocated by the Department of Administration.

Section 7. This Order shall become effective immediately.

Done in the City of Raleigh this the 14th day of December, 1981.

James B. Hunt, Jr.
Governor
State Of North Carolina

Department of State,

Raleigh, November 2, 1981

I, Thad Eure, Secretary of State of North Carolina, hereby certify that the foregoing volume was printed under the direction of the Legislative Services Commission from ratified acts and resolutions on file in the office of the Secretary of State.

[Signature]

Secretary of State
NUMERICAL INDEX TO SENATE AND HOUSE BILLS
RATIFIED NUMBER refers to Chapter Number except when preceded by an R, in which case it refers to Resolution Number.

SENATE BILLS - SESSION 1981

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